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REPORTS
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TESTIMONY

BEFORE

Legislative Committees,

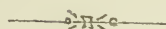
ON THE SUBJECT OF

RAILROAD TRANSPORTATION,

BY

ALBERT FINK.

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COST OF RAILROAD TRANSPORTATION,

RAILROAD ACCOUNTS,

AND

Governmental Regulations of Railroad Tariffs,

By ALBERT FINK,

VICE-PRES'T AND GEN'L SUP'T OF THE LOUISVILLE AND NASHVILLE
AND GREAT SOUTHERN RAILROAD.

EXTRACT FROM ANNUAL REPORT OF THE
LOUISVILLE & NASHVILLE RAILROAD COMPANY,
FOR THE YEAR ENDING JUNE 30, 1874.

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COST OF RAILROAD TRANSPORTATION, RAILROAD ACCOUNTS, And Governmental Regulation of Railroad Tariffs.

EXTRACT FROM THE ANNUAL REPORT OF THE LOUISVILLE & NASHVILLE
RAILROAD COMPANY.
FOR THE YEAR ENDING JUNE 30TH, 1874.

* * * * * * * *

CLASSIFICATION OF OPERATING EXPENSES.

Before leaving this subject attention is called to the classification of accounts in tables — and —. It will be observed that the accounts are divided into three classes :

Maintenance of road, buildings, and general expense, from account 1 to 29.

Station expenses, from account 30 to 40.

Movement expenses, from account 41 to 74.

The expenditures of each class bear a distinct character, to which I will now refer more particularly.

Those in *the first class* are not affected by the amount of business transacted, within certain limits to be referred to hereafter. The roadway must be kept in good order, cross-ties when decayed must be renewed, bridges kept in repair, and a certain organization of officers and men must be kept up, whether one or more trains are to pass over the road.

This class of expenditure per mile of road will vary on different roads, according to the permanency of construction, the number of bridges to be kept in repair, the nature of the soil, the climate, and many other local conditions. They will also vary with the amount of business, but only to the extent to which an increase of business requires more extensive accommodation, such as depot-buildings, side-tracks, etc., which have to

be kept in repair. On a road with an established business, and having suitable accommodation for the same, considerable variation in business may take place without affecting this class of expenditures.

The *second class* of expenditures are incurred at stations, in keeping up an organized force of agents, laborers, etc., for the purpose of receiving and delivering freight, the selling of tickets, etc.

One portion of these expenditures does not vary with the amount of business; another portion does. A certain number of agents have to be employed, whether there is more or less work to be done; but the number of persons employed to handle freight may be varied in proportion to the number of tons of freight to be handled. This whole class of expenditures, however, is entirely uninfluenced by the length that either freight or passengers are hauled, or, in other words, by the work of transportation performed. Freight or passengers may be hauled five or two hundred miles, the station expenses incurred on their account being the same.

In the *third class* of expenditures have been collected all those that vary with the number of trains run.

On roads on which there is sufficient freight business to fill all trains that are run from one terminus of the road, the amount of freight transported will be nearly in proportion to the number of freight train-miles; and hence, on such roads this third class of expenditures will be nearly in proportion to the amount of business. It is this class of expenditures alone which possesses that characteristic.

On roads, however, upon which freight trains have to be run at stated times, whether fully loaded or not, this class of expenditures does not vary with the business, but very nearly with the number of trains run. The expenditures and amount of freight transported in this case are irrelative, the cost of transporting freight being dependent entirely upon the loads as accidentally offered for transportation.

To the three classes of expenditures just named, and which have been shown separately and in detail in tables — and —, must be added a fourth, not shown in these tables, but which forms a large proportion of the total operating expenses of railroads—viz., the interest on the capital invested.

This class is mainly uninfluenced by the amount of work done. Only so far as an increase of business involves the necessity of additional investments for its accommodation is it influenced by the amount of business.

In the consideration of the subject of the cost of railroad transportation, it is of the greatest importance to discriminate between the expenditures which vary with the amount of work performed and those which are entirely independent thereof. The latter form so large a proportion of the total operating expenses of railroads that it becomes impossible to make the *amount of work performed* a criterion or measure of the cost.

The fixed or inevitable expenses which attach to the operation of railroads, and which are the same whether one or many trains are run over a road, have to be ascertained separately in each individual case. These expenditures are in the nature of a tax upon the business of the road; the smaller the business the larger the tax. What the tax may or should be per ton of freight or per passenger carried in any one case cannot be predetermined by any general rule or law, but can only be ascertained after the two elements on which it depends—(1) the fixed expenditures, and (2) the amount of work done—are actually known. These elements vary on all roads; it would be a singular accident to find them alike on any two.

The disregard of these facts in estimating the cost and the value of railroad transportation with a view of judging of the reasonableness of railroad tariffs, has led to many erroneous conclusions, which appear to be now fixed in the public mind. It is of great importance to the owners of railroad property at this present time—more so, perhaps, than heretofore—to possess correct information upon the subject of the cost of railroad transportation. It may, therefore, not be considered out of place here to show how the cost of transportation varies upon the various roads operated by the Louisville & Nashville Railroad, and the reasons therefor.

The following table (A) shows the percentage of the four classes of expenditure above referred to, of the total operating expenses on the seven roads operated by the Louisville & Nashville Railroad Company :

TABLE A.

	M. S.	M. L.	N. & D.	K. B.	B. B.	R. B.	G. B.
Movement expenses.....	41.367	38.589	38.594	22.428	19.490	17.634	28.761
Station expenses.....	18.161	12.924	12.259	4.367	6.209	5.832	6.007
Maintenance of road.....	14.453	17.179	17.554	17.964	22.505	17.295	9.361
Interest on investment.....	26.019	31.308	31.593	55.241	51.796	59.239	56.871
Total.....	100.000	100.000	100.000	100.000	100.000	100.000	100.000

From this table will be seen the great diversity existing in the relative proportions of each class of expenditures.

The movement expenses, the cost of conveying freight from one place to another after it is loaded in the cars—the transportation expenses proper—are 41.3 per cent. on the Main Stem, and only 17.6 on the Richmond Branch, of the total operating expenses. We have, therefore, in one case 58.7, in the other 82.4 per cent. of the total operating expenses, which are entirely uninfluenced by the amount of work performed as measured by weight and distance, or ton-miles.

The station expenses vary from 4.3 per cent. on the Knoxville Branch to 18.1 per cent. on the Main Stem of the total operating expenses.

The cost of maintenance of road is 9.3 per cent. on the Glasgow Branch, and 22.5 on the Bardstown Branch.

The interest account is 26 per cent. on the Main Stem, and 59.2 per cent. on the Richmond Branch.

With such great variations in the constituting elements of the cost of transportation, uniformity in the final results can not be expected.

CAUSES OF DIFFERENCE IN COST OF TRANSPORTATION.

I will now compare the expenditure of each class per ton-mile on the seven roads, and show more particularly the reasons for the great difference in cost.

The following table (B) shows each class of operating expenses per ton-mile on the seven roads operated by the L. & N. R. R. Co.:

TABLE B.

COST PER TON-MILE.	M. S.	M. L.	N. & D.	K. B.	B. B.	R. B.	G. B.
	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
Movement expenses.....	.7365	.8102	.9787	.9364	1.5039	1.6934	5.4928
Station expenses.....	.3233	.2714	.3109	.1823	.4791	.5601	.9563
Maintenance of road.....	.2573	.3607	.4451	.7499	1.7366	1.6608	1.7877
Total operating expenses.....	1.3171	1.4423	1.7347	1.8686	3.7196	3.9143	8.2368
Interest.....	.4633	.6574	.8011	2.3061	3.9968	5.6887	10.8615
Total oper'g exp. and interest.	1.7804	2.0997	2.5358	4.1747	7.7164	9.6030	19.0983

Movement expenses (comprised of items 41-73, Tables — and —). It appears that on the first four roads this class of expenditures varies from .73 cents to .97 cents per ton-mile; on the last three named from 1.50 cents to 5.49 cents per ton-mile. The first four roads belong to that class on which fully loaded freight trains can be started from one terminus of the road; on the last three named trains are started at regular times, regardless of the amount of load that is to be carried. Hence, we find greater agreement in the cost of moving one ton one mile on the first four roads than on the latter, on which the cost depends altogether upon accidental causes.

If on the first four roads the grades, curves, and the cost of labor and material were the same, and also the character of the business, then the cost per ton-mile should be the same; but as these elements of cost differ, uniformity in the cost even in the movement expenses cannot be expected.

The character of the business of a road has a great influence upon the cost of transportation.

We find the average train loads carried on the first four roads, and the movement expenses per ton-mile, as follows:

	M. S.	M. L.	N. & D.	K. B.
Average train-loads.....tons	135	113	96	77
Movement expenses per ton.....cents	0.73	0.81	0.97	0.93

On the Main Stem the average net load carried per train is nearly twice as much as on the Knoxville Branch.

On the first named road a large amount of freight is carried

over its whole length; while on the latter, which is a mere local road, it only passes over a portion of its whole length. The capacity of the locomotive and train cannot, therefore, be as fully utilized on the latter as on the former road.

On the Main Stem the tonnage in one direction is 73 per cent. of the tonnage in the other direction, while on the Knoxville Branch it is only 21 per cent.; hence, more empty cars have to be run on the latter than on the former road.

The result is that an average of 135 tons of freight is being carried per train on the Main Stem, while only 77 tons can be carried on the Knoxville Branch; yet the same attention is paid on both roads to secure maximum loads to each train.

It is the character of the business peculiar to each road that brings about this great difference, which, of course, influences the cost of transportation.

On roads on which there is not sufficient business to secure full loads to the trains from one or the other of the terminal stations, the difference in the movement expenses per ton is found still greater.

The following table shows the average loads carried in the trains of the three branch roads, and the cost per ton-mile for moving the freight:

	B. B.	R. B.	G. B.
Average number of tons of freight carried on one train.....	18.2	24.0	4.9
Movement expenses per ton-mile.....cents	1.5	1.7	5.5

It is on account of the small loads carried on the Glasgow Branch per train (4.9 tons) that the movement expenses are so much larger than on the other branches, on which the trains carry from 18.2 to 24 tons.

Station expenses (items 30-40, Tables — and —). The elements controlling the cost per ton mile for station expenses are:

(a.) The cost of handling one ton of freight—for loading, unloading, clerking, agents' salaries, depot expenses, switching, etc.

(b.) The length of haul.

Supposing that the cost of handling freight per ton were the same on all roads and at all stations of a road, then the cost per ton-mile of freight would vary according to the length of haul. For each particular length of haul there would be a different cost per ton-mile for this service.

By reference to Table — it will be seen that the average cost of station expenses per ton of freight handled on the Main Stem of the road is 23 cents. For freight that passes over the whole length of the line, say between Louisville and Memphis, the cost per ton-mile would be $\frac{2 \times 23}{377} = 0.12$ cents, and for freight carried only for five miles it would be $\frac{2 \times 23}{5} = 9.2$ cents. We have, therefore, a difference between the cost per ton-mile from 0.12 to 9.2 cents, although the actual cost of performing the work was the same in both cases; thus showing that the ton-mile is not a proper unit of measure of cost of this service.

But there is even considerable variation in the cost of handling one ton of freight at various stations, as will appear from an examination of Table —, which shows the station expenses per ton and the number of tons of freight handled at each station. We can ascertain from this table, in connection with Table —, the average cost per ton-mile of freight handled at each station.

The latter table gives the number of ton-miles of freight received and forwarded from each station. Dividing the number of tons into the number of ton-miles gives the average haul, and dividing this into the cost per ton for handling gives the average cost per ton-mile for handling freight.

For example, take Brooks Station. Number of tons of freight received and forwarded (Table —), 654; freight to and from Brooks Station was carried 14,335 miles (Table—); therefore, the average haul $\frac{14,335}{654} = 21.8$ miles; station expenses per ton at Brooks Station (Table —), 71 cents; cost per ton-mile $\frac{71}{21.8} = 3.26$ cents. To this has to be added the expenses at the station from or to which the freight was forwarded.

If both stations are known, the cost per ton-mile for station expenses can be readily ascertained from Table —. For example, for freight shipped between Louisville and Brooks Station, distance 9.2 miles :

Station expenses at Brooks Station per ton	71.0 cents.
Station expenses at Louisville per ton.....	24.3 "
	<hr/>
Total cost per ton.....	95.3 "
Length of haul, 9.2 miles; cost per ton-mile, 10.4 cents.	

This example sufficiently illustrates the great variety in cost, and the impossibility of making the ton-mile the measure of cost of or compensation for this service. The ton handled would be a more correct measure, although there is necessarily much variety even in this cost, as we have seen, and as will still further appear from an examination of Table —.

It must, therefore, be evident that it is impossible to predetermine the cost per ton-mile of freight for handling without taking into consideration the length of the haul and the conditions under which the station service has to be performed.

Maintenance of roadway and general expenses (items 1-29).—The two elements that determine the cost per ton-mile for this service are—

1. The cost of maintaining one mile of road, etc., during a given time.
2. The number of tons of freight passed over it during the same time.

The former differs on each road, and so does the latter; hence, uniformity in cost per ton-mile is impossible.

The following table shows the cost of maintenance of roadway and general expense per mile of road on the seven roads operated by the Louisville & Nashville Railroad Company during the last year, and the average number of tons of freight passed over one mile of each road; also the cost per ton, mile:

	M. S.	M. L.	N. & D.	K. D.	B. B.	R. B.	G. B.
Cost of maintenance of road per mile per year (Table —, item 29).....	\$1,857.87	\$1,142.25	\$1,243.49	906.76	436.69	436.61	262.73
Tons of freight passed over one mile of road.....	433,662	152,273	143,378	72,456	11,538	16,656	6,137
Cost per ton-mile... ..cents	0.26	0.36	0.44	0.75	1.74	1.66	1.78

Part of the cost of maintenance of roadway and buildings is chargeable to the passenger traffic. The division of charges

between the two classes of traffic has been made in proportion to train-miles. It follows from this that the cost per ton-mile of freight is in a measure affected by the relative use made of a road by the passenger and freight traffic.

From this statement will be noticed the great difference in cost of maintaining one mile of road, buildings, etc. On the Main Stem this cost is \$1,857.87, on the Glasgow Branch \$262.73 per mile.

An examination of the items from 1 to 28, Table — will show in what particulars these differences occur. A few may be mentioned here. The cost per mile on the Main Stem and Glasgow Branch is as follows :

	M. S.	G. B.
Renewal of ties.....	368.89	32.96
Bridge superstructure.....	250.26	25.14
Ditching.....	69.23	26.06
General expense.....	346.14	.....
Salaries, insurance, and taxes.....	100.40	.....
Total.....	\$1,134.92	\$84.16

The difference in cost in these five items on the Main Stem and Glasgow Branch is \$1,050.76 per mile of road. Part of this great difference is caused from the fact that on one road greater expenditures were made during this year than was due to the year's business ; on the other road less. It will be remembered that the yearly depreciation of cross-ties on the Main Stem was found to be for $16\frac{1}{2}$ years at the rate of \$257.11 per mile, while during the past year there was expended \$368.89 on the Main Stem, and on the Glasgow Branch only \$32.96 per mile ; the first sum more, the latter considerably less than is required to make good a year's depreciation.

There are great differences in other expenses, such as repairs of bridges, on the two roads. On the Main Stem, as has been mentioned before, the cost of bridge repairs during the last year was unusually heavy, while on the Glasgow Branch, with only one small bridge, the cost is very small. The general expenses of administration on the Main Stem are not in-

curred on the Glasgow Branch, which is also exempt from taxation. Hence the great difference in cost of maintenance of road and buildings and general superintendence between the two roads.

When we examine into the differences existing in regard to the amount of business transacted in one year over one mile of road—the other element named which enters into the cost of one ton per mile—we find the variation still greater. On the Main Stem 433,662 tons, on the Glasgow Branch only 6,137 tons, pass over one mile of road per year. We can, therefore, not be surprised that the cost on the Main Stem for maintenance of road is only one-fourth of a cent per ton-mile and on the Glasgow Branch 1.8 cents.

Interest account.—The original cost of the road and the rate of interest form one element, and the amount of business transacted the other, which determines the cost per ton-mile.

The cost of roads per mile and the business transacted over the same vary so much that the cost per ton-mile for interest can not be expected to be the same in any two cases.

It is impossible to predetermine what is a proper charge for interest on any particular road until these elements—viz., the cost of road and the amount of business—are known.

On the Main Stem of the Louisville & Nashville Railroad, dividing the number of ton-miles of freight carried into the interest chargeable to the freight business, the cost per ton-mile is 0.46, while on the Richmond Branch it is 10.86 cents, over twenty times as much. On the five other roads the interest charge varies from 0.65 to 5.7 cents per ton-mile. (For further particulars refer to Table B, page 5.)

We have now considered the variation in each class of expenditures and the causes therefor per ton-mile. When we find so much variation in the elements which make up the cost of transportation, we can not expect to find uniformity in the total cost.

From Table B it appears that the variation in the total cost per ton-mile is from 1.78 cents on the Main Stem to 19.09 cents on the Glasgow Branch. The work performed—viz., the movement of one ton of freight one mile—is the same on all roads, yet the cost of performing is ten times more on one road than on the other.

Great as this variation is on the seven roads under the same management, the variation of the cost per ton-mile is still greater even on the same road, depending as it does upon the different conditions under which the service has to be performed. It would lead here too far to thoroughly analyze the cost of railroad transportation in all its details, and I will only state that a careful investigation shows that under the ordinary conditions under which transportation service is generally performed the cost per ton-mile in some instances may not exceed one-seventh of a cent, and in others will be as high as 73 cents per ton-mile on the same road. The lower cost applies to freight carried in cars that otherwise would return empty; the higher cost to freight in small quantities carried short distances.

It is impossible to predetermine the cost of carrying freight on any one road unless the conditions under which it is to be carried, as far as they affect the cost of transportation, be previously known.

In order to estimate the cost of transportation under the various conditions that occur, it is necessary to classify the expenditures, and to separate those that increase with the amount of work done from those that are fixed and independent of it; and to ascertain the ratio of increase of cost with the increase of work. Without such an analysis of the cost it is impossible to solve the question of cost of transportation that arises in the daily practice of railroad operation. A mere knowledge of the average cost per ton-mile of all the expenditures during a whole year's operation is of no value whatever in determining the cost of transporting any particular class of freight, as no freight is ever transported under the average condition under which the whole year's business is transacted. We can therefore not make the average cost per ton-mile the basis for a tariff, if it is to be based upon cost; but we must classify the freight according to the conditions affecting cost, and ascertain the cost of each class separately.

A formula is given on page 29, showing the various elements entering into the calculation of the cost of railroad transportation.

COMPARISON BETWEEN RAILROAD AND OTHER TRANSPORTATION.

The problem of ascertaining the cost of railroad transportation is not quite so simple as it may at first sight appear. It is much easier to determine the cost of wagon, canal, or steamboat transportation. The common carrier by wagon or canal knows the exact amount of toll he has to pay, and assumes no risk of an investment in an expensive roadway. Nature furnishes a roadway to the carrier by steamboat, and keeps it in repair free of charge. Hence, in estimating the cost of transportation by wagon, canal, or steamboat, two of the most uncertain and changeable elements, and at the same time the costliest, of railroad transportation are eliminated from the calculation. Railway companies are not only *common carriers*; they are also *proprietors of a roadway*. Their tariff charges are not only for transportation service proper, for the service rendered as common carriers, but also for the *use of the roadway, for its maintenance, and for the risk assumed in the investment*.

Notwithstanding this distinctive character of railroad service, as compared with that performed by other common carriers, it is sought to regulate the tariffs of railroads, and to judge, compare, and criticise the same by the same measure or rule that applies properly only to the service of common carriers; viz., the measure of *weight of freight and distance to which it is carried*. The idea prevails that the cost of transportation of a ton of freight on one railroad should not materially differ from that on others, and that the cost of moving freight should be in exact proportion to the distance to which it is carried.

These rules might be applied with some degree of justice to the cost of *moving* freight, although even here discrimination between different roads and different lengths of haul must be made; but the measure of weight and distance—the ton-mile—cannot be used as a measure of cost incurred by railroad companies as *proprietors of the roadway*. This service must be measured by different rules. The cost of the roadway, the rate of interest and discount in obtaining money, the cost of the maintenance, and the actual use made of the roadway, form the proper data for calculation.

On the seven roads operated by the Louisville & Nashville

Railroad Company, the cost of maintenance of road and interest on investment, when distributed over the number of ton-miles carried over the roads, is as follows (see Table B, page 5) :

	M. S.	M. L.	N. & D.	K. B.	B. B.	R. B.	G. B.
Cost per ton-mile. . . . cents	0.7206	1.0181	1.2462	3.0560	5.7334	7.3495	12.6492

This statement shows the great difference in cost, from 0.7 cents to 12.6 cents per ton-mile, although the service rendered is exactly the same ; the use of the roadway for one mile for the purpose of moving over it one ton of freight.

Were these roads owned by one party and used by another (the latter common carriers merely), the toll, or the charge for the use of the roadway, would have to be made according to these figures, in order to reimburse the proprietor for the cost of the service. If the common carrier would then charge separately for his services for moving the freight by the ton-mile, and for handling, warehousing, and taking care of it by the ton, the difference between the charges for the service as common carriers on the different roads would not be so great.

If the charges for railroad transportation were thus subdivided, the reasonableness of the same could be more readily explained and understood. The confusion which exists in the minds of some people on the subject of railroad tariffs, arises from the prevailing practice of combining the charges for three distinct services in one, and applying a measure to the whole which only can properly be applied to a portion of it.

So strong has become the conviction in the public mind that there should be uniformity in the cost of railway transportation, that it has found expression in some of the States in legislative acts enforcing uniformity in compensation, while the natural laws governing cost, causing, as we have seen, so great a difference, are allowed to operate undisturbed.

The ton-mile, without further inquiry as to its adaptability, is made the measure of cost. If by comparing the tariffs of different roads, or the tariff for different services on the same road, a difference be discovered, the road charging the higher

rates stands convicted of practicing extortion and unjust discrimination.

Upon such evidence as this, laws have been enacted in some States for the purpose of preventing extortion, and which affect injuriously railroad property and the rights of a great many innocent people.

GOVERNMENTAL REGULATION OF RAILROAD TARIFFS.

It can not be denied that a law forcing railroad companies to furnish the use of their roads and to transact the business of a common carrier for less than cost is simply a law of confiscation, no matter under what pretext of authority it is enacted. It can hardly be maintained, in the light of our knowledge of human nature, that at the time the contracts between some of the States and the builders of the roads were made the latter were given to understand, as distinctly and clearly as they are now made to understand, that the State reserved the right to confiscate their property at pleasure. It appears that the interpretation of the law by one party to the contract was a great surprise to the other, originating, as it did, many years after the contract was made, during which time the construction now put upon it was not thought of or sought to be enforced. In ordinary cases, the true meaning of a contract, if not unequivocally expressed, is determined from the manner in which the same has been executed through a long period of time ; but this does not seem to hold good when railroads are parties to the contract.

The question as to the right and the extent of the right of the government of a State or the National Government to prescribe fixed compensation for specific transportation services, or to regulate in a more general manner the railroad tariffs, is one of great interest and importance to all owners of railroad property.

The relations of the Louisville & Nashville Railroad Company to the States in which it is located are well defined by the several charters ; yet the National Government, at least one branch of it, has lately claimed jurisdiction over railroad tariffs, on the plea of having the power under the Constitution to regulate commerce between the States ; and there prevails a

general tendency in the public mind that something must be done in the way of railroad legislation.

In the last Legislature of the State of Kentucky a law was passed through the Senate making it obligatory on all the roads in the State to carry way freight (including the cost of handling it) at a rate not exceeding 25 per cent. over the lowest rate per mile charged at the same time for through freight. A full explanation of the chartered rights of the company, and of the bearing and effect of such a law upon the railroads of the State and upon public interests, was made to the intelligent committees of both legislative branches, and this was sufficient to prevent the final enactment of that law.

In the Legislature of the State of Tennessee several laws on the subject of railroad tariffs passed through one, and some through the other branch of the Legislature, and only failed at the close of the session for want of time.

These laws were of such a character that had they passed, and could they have been enforced, would have ruined the whole railroad property of that State.

It is true that such legislation could be clearly proven illegal and void, both under our charters and under the constitutions of the States, yet during the time required to do so, great losses might be inflicted upon the stockholders, and expensive and troublesome litigation would follow. All of which can be avoided by a more thorough knowledge of the subject on the part of the people and their representatives. It can be readily shown that many of the difficulties of what is called the railroad problem are only apparent. They have their existence in the ignorance of the people upon this subject, and as soon as the facts appear in their full and true light, most of them will vanish without the aid of legislative interference.

It is with a view of bringing about a clearer and better understanding of railroad transportation that I have referred to it in this report at so great length.

Nine-tenths of the stockholders of the Louisville & Nashville Railroad and its leased lines are citizens of the States in which their roads are located; the question of legislative control of railroads in this instance is not a mere party question between the people and "soulless corporations," but it is a question between the people who furnish the transportation

and the people who use the roads. To a great extent they are the same, a great portion of the road being owned by cities and counties. A careful study, therefore, by the people of the facts and questions involved becomes almost a matter of necessity in the preservation of their own property.

The subject of legislative enactments regarding the tariffs of railroads not owned by the Government must be considered in two aspects—first, as to the abstract right of the Government to establish tariffs; and second, as to the practicability of establishing and enforcing the same so as to accomplish the object for which the control is undertaken.

The first question is one of law, and must be decided by the courts in accordance with contracts, charters and constitutions; but the second is a question for the consideration of experts in the management of railroads, and must be decided from a knowledge of the facts and the natural laws controlling the subject.

Should the courts decide that the Government has the right to establish or control railroad tariffs, and it be found in the nature of the case that the exercise of that right necessitated the violation of other fundamental laws, the question as to the abstract right would become of secondary importance.

There is a decision on record that bears upon this subject. It is not reported in the law books, but has been universally approved. A certain citizen of Venice was given the right under the law to take one pound of flesh from a fellow-citizen. He found it impossible to obtain it without also taking blood, and probably life, to which he had no lawful claim; and the judgment, therefore, remained unexecuted.

The right of the Government to establish and enforce railroad tariffs does not carry with it the right to confiscate the property of railroad companies. If a tariff cannot be established and enforced unless the property of railroad companies is used without due compensation and without their consent, then this right ought not to be exercised, unless it be contended, as it has been by some, that "might is right." But even then it would soon be discovered that to deal unjustly with railroad companies will react sooner or later injuriously upon the public interest, and that to act in accordance with

the dictates of justice in this as in all other cases will prove the best policy.

The question as to the right and policy of Governmental interference with railroad tariffs practically resolves itself into this question: whether it be possible for the Legislature to undertake this control without the violation of other laws and the rights of parties interested, and in such a manner as to fully accomplish the object for which this control is undertaken. This question I will now consider.

PRINCIPLES UPON WHICH RAILROAD TARIFFS MUST BE CONSTRUCTED.

The first principle that should guide the formation of railway tariffs stands written in the good book—"The laborer is worthy of his hire." Those furnishing transportation for others should be reimbursed for at least the cost. Had this principle not been recognized at the time the roads were built, few would now be in existence, and if it is to be repudiated now, few will be constructed hereafter. The proper basis of railroad tariffs is, therefore, the cost of the transportation service.

I have shown in this report the great variation in the cost of railway transportation on different roads, and the causes which necessarily bring about this result. From it necessarily follows the impossibility of enacting general laws establishing tariffs applicable to *more than one road*.

What is reasonable compensation for railway transportation service, or what constitutes just or unjust discrimination in railway charges, is not a question that can be decided *a priori*, or that can be formulated into a general law. It can only be decided in each individual case, when all the conditions under which the service is performed and the elements controlling its cost are known; in most cases it can only be decided correctly after the service has been performed.

It would be just as sensible to predetermine by legislation what shall be the cost of raising a bushel of corn as to predetermine the cost of carrying a ton of freight. The action of the sun and rain upon the growth of the corn and the quantity of the yield are no less uncertain elements than some of the elements which enter into the cost of transportation service.

The average cost of moving one ton one mile on the Main Stem of the Louisville & Nashville Railroad is 1.78 cents ; on the Glasgow Branch 19.09 cents. What justice would there be in establishing a law requiring both roads to work for the same compensation ? Nor would it be more just to classify the railroads and enact a special tariff for each class, as no general laws exist or have as yet been discovered under which such classification could be made ; the various combinations of elements of cost are different on and peculiar to each road, controlled as they are by local causes.

The great difference in cost referred to in this report occurs in the average cost per ton-mile of transportation during the period of a whole year ; but there is still greater difference in the cost of transportation of one ton one mile on the same road, varying with the conditions under which the service is performed, according to the length of haul, the quantities in which freight is transported, and whether the freight is carried in cars that would have to return empty or in special trains. I have mentioned that according to these and other conditions it may cost one-seventh of a cent only in some cases and seventy-three cents in others to transport one ton of freight one mile.

The labor, therefore, of forming a tariff based strictly upon cost is very intricate, and not of such a character that it can be properly performed by legislative bodies as at present constituted. The only mode in which they could act would be to appoint competent officers, whose duty it would be to ascertain the cost of transportation on each individual road, and to establish a tariff accordingly. If this duty could be properly performed, few railroad companies would complain, as the majority work for less than cost.

A tariff so established strictly upon the basis of cost would, however, be of little use unless it be accompanied by a law forcing the people to ship over the road a *certain quantity* of freight at the *established rates*. If they are left free to select other modes of transportation that may be cheaper, then it would soon become apparent that the railroad would be of use only to a very limited number of people ; as the number of shippers is decreased the cost of transportation would be increased in many cases to such an extent that the turnpike

would furnish a cheaper mode of transportation. *The fact would soon become evident that railroad tariffs cannot be based upon the cost of transportation alone.* Other elements enter into their formation that cannot be ignored, if it be intended to develop fully the usefulness of railroad property both to its owners and to the public.

The question that greatly controls railroad tariffs is *what is the service worth, not what does it cost*; and this is a mere commercial question, uncontrollable by acts of legislation. The relative value of an article at the place from and to which it is shipped determines the charges for transportation it can bear. If a greater charge is made than the difference in these values the article cannot be moved. It may, therefore, become necessary to charge on some articles less than the full cost of transportation in order to enable them to be moved at all; and this necessitates again to charge more on others which can bear higher charges.

An element is here necessarily introduced of a purely commercial character, and which requires a knowledge of the value of articles in the different markets of the country between which they are to be exchanged, situated often far beyond the limits of any one State. This element must necessarily work constant changes in tariffs, and it would, therefore, be impossible to predetermine the same or fix them by legislative action.

There is another disturbing element that prevents fixed railroad tariffs. *It is competition.* The simple question requires to be answered, will you carry freight and passengers for the *same* that other transportation lines charge, either by rail or river, or will you *not carry them* at all?

All that has to be known by the railroad manager to answer this question is the minimum cost at which the service can be performed. If the obtainable rate exceeds cost, no matter how little, it becomes his interest to accept the terms offered. The important question to be decided is, what is the minimum cost?

In the statements I have given on page 5, the average cost of transportation per ton-mile for four different classes of expenses were given. Two of these classes are not affected by the work done, but are fixed, viz., the cost of maintenance

of road and the interest on the investment. On the Main Stem of the Louisville & Nashville Railroad they amounted to 0.72 cents per ten-mile, or forty per cent. of the whole cost, and the expenses for moving and handling freight were 1.06 cents per ton-mile.

Now, it follows that when freight is to be carried at a rate fixed by competition, and cannot be carried at all if a greater rate is demanded, the Louisville and Nashville Railroad Company can carry the same at the rate of 1.06 cents per ton-mile and not lose thereby; if it could obtain more, the additional receipts would be just so much profit, applicable to lowering the rate on other freight. Yet if the Louisville & Nashville Railroad Company was to be forced by law to do all their business at this low rate, the expenses would exceed the income by forty per cent., and the road could not be operated at all. The company would prefer to abandon the competitive business and arrange the tariff for way business by charging, when this is possible, as much more as the profit on the competitive business would have amounted to.

From this it will be seen that the transaction of this competitive business, apart from the indirect benefits which it may exercise, is more to the advantage of the shipper, whose location does not give him competitive privileges, than to the railroad company.

Notwithstanding this fact, the carrying of competitive freight at low rates is the most fruitful source of complaint on the part of the shipper who pays higher rates. It has given rise to the charges so commonly preferred against railroad companies of making unjust discriminations in their tariffs, and against which legislative protection has mainly been invoked.

JUST AND UNJUST DISCRIMINATION.

It is maintained that to carry freight between distant competitive points at lower rates than between intermediate points where no competition exists is an act of injustice to the shippers at the latter points. This conclusion is based upon the assumed principle that common carriers are bound to serve their customers alike. The application, however, of a general principle to complicated transactions, such as take place in the

business of common carriers, without taking into account *all* the facts bearing upon the same, is apt to lead to erroneous conclusions, as it does in this case.

I will illustrate this subject by a special case, which is a representation of many. Louisville and Memphis are connected by navigable rivers, and in the exchange of commodities between the two cities they have always had the benefit of low rates of river transportation. A railroad 377 miles long is built connecting the two cities, passing through a number of interior places, which had before only imperfect communications. Suppose one of these places, called A, be located on the line of this road, 100 miles from Memphis and 277 from Louisville; how is it affected by the construction of the road? Before the road was built freight from Louisville destined to A was shipped to Memphis by river, and then by wagon to A. Since the road has been built, there are two routes from Louisville to A, one by river to Memphis and thence by rail, and the other by rail direct to A. Taking the first route, the charge for shipping to A is made by adding to the river rate from Louisville to Memphis the rail rate for 100 miles from Memphis to A. This latter rate is much below the rate formerly charged by wagon, and to the extent of this difference the shipper at A has been benefited by the construction of the road, not to mention the greater convenience and saving in time of which he now gets the benefit. This ought and would be satisfactory if the road stopped at A; but the fact that a new route is opened to him, direct from Louisville, only 277 miles, causes all the trouble.

The railroad is obliged to carry freight from Louisville to Memphis at the low river rate, which is much below the average cost of railroad transportation; but it derives from this rate a small profit, for reasons fully explained on pages 19 and 20. It is obliged for the same reasons to charge its customers at A more per ton-mile for the distance of 277 miles than is charged to Memphis; but this can in no case exceed the sum of the river and rail rates from Louisville to A *via* Memphis, for if it did, the latter route would be the preferred one.

Now, the fact that the railroad carries freight from Louisville to Memphis through A, at a lower rate than it carries it from Louisville to A, is considered an act of injustice to the shipper at A, and he demands that he be put on the same, or even a

better, footing with the shipper at Memphis, who always had the advantage of lower rates of transportation before the road was built. His demand amounts to this: that the railroad company having expended millions of dollars in the construction of a railroad connecting the interior places, which were without the improved modes of transportation, with two cities upon navigable rivers, conferring thus a great benefit upon those interior places, shall, in consideration of having done so much, do still more, and secure for them the same advantages possessed by the places situated upon the banks of navigable rivers.

It is rather surprising that some courts have decided this position to be right. They have declared it unjust discrimination for railroad companies to charge higher rates of transportation to intermediate than more distant points, a decision based upon the improper application of the principle that common carriers must not make any distinction among shippers.

From the foregoing illustration it will appear that discriminations necessarily have to be made; but it will also appear that it is not the common carrier who creates the same arbitrarily, but the nature of things makes them necessary. To pursue another course than that indicated would result to the disadvantage of all concerned and benefit no one. Were the low competitive freight to be refused, the cost of carrying other freight would be increased. If the same rate was to be charged to all interior points as to the competitive points, the railroad could not be operated at all.

Different localities are more or less favored in regard to transportation facilities, either by nature or the enterprise of man. It cannot be maintained that it is the duty of the common carrier to equalize these existing inequalities at his own expense. All that is required of him is not to create them himself arbitrarily. He must treat all alike that are situated alike; but he cannot be bound to wipe out existing differences. He may be obliged to carry freight at a lower rate to some localities than to others, but this in itself does not constitute an injustice or injury to the shipper in a less favored locality, as long as the charges made are reasonable in themselves and alike to all in the same situation.

Discriminations are the necessary result of competition, and competition is the best protection against extortionate charges—much more efficient than any artificial legislative device. To take away the right from railroad proprietors to establish their tariffs upon the recognized principles that guide all other commercial transactions, and substitute fixed tariffs or arbitrary rules on which they must be based, would destroy the great usefulness of railroads.

It may be and has been asserted that the effect of competition is not felt upon way business for which no direct competition is possible. This, however, is an erroneous view. When there is competition at any one point upon a railroad it makes itself felt over some portion of the road, more or less, according to the situation of the competing line. The truth of this can be illustrated by again referring to the case already cited. The rate from Louisville to an intermediate station on the road from Louisville to Memphis is established, as I have shown, by adding to the river rate to Memphis the railroad rate from Memphis to this intermediate station, which I have called A. The rail rate is limited by the charter, which prescribes maximum rates, or where this is not the case it would be limited by the consideration as to what constitutes a reasonable compensation for 100 miles of rail transportation, and could in no case exceed the rates charged for transportation by other modes that might be available from Memphis to A. It is therefore the competitive river rate from Louisville to Memphis that influences and establishes the rate to this interior point.

As the number of competitive points is multiplied on any one road the rates to a greater number of interior points are influenced, and this to a greater extent. Thus the Memphis Line from Bowling Green, where it diverges from the Main Stem to Memphis, 259 miles in length, is crossed by two navigable rivers and four other railroads, establishing thus six competing points. The shippers over this line can therefore always avail themselves of the competitive rates to the nearest point. They can in no case be charged more from Louisville direct to any station of the road than the competing rate and the rate of the short rail haul added, no matter what may be the distance from Louisville to the interior point. The con-

sequence is that all the interior points enjoy the benefit of whatever competition there is; but it also follows that the tariff upon such a line cannot be constructed upon a mileage basis, but must make more or less discrimination between the different localities according as they are affected by competition. It may necessarily require freight to be hauled over a longer distance for much less than it is carried for a shorter distance. It is either this or the abandonment of competitive business.

If railroad companies could agree among themselves to stop competition to junction points, one of the most fruitful causes of complaint against discrimination in railroad tariffs would at once be remedied; but it would be at the expense of the benefit of competition.

The same result must follow if the rates to competing points are determined by the Legislature of the State in which they are situated. But in this case competitors by river and railroads in other States should also be compelled to maintain these rates; otherwise the roads over which the State has complete control could not do business at all at competing points. Surely the people could not be benefited by such a course; it would be much better to let the natural laws of competition have their full force. To interfere with them is certainly not to regulate but to obstruct commerce, for which there is no authority in the Constitution of the United States.

The problem of establishing a railroad tariff that possesses all the desirable requirements is one not of easy solution. It is an intricate and difficult problem; but the more complicated we find it to be, the more reasonable it is to assume that it can better be solved by those who are directly interested, who practically devote their whole time and attention to it, than by members of a Legislature, a majority of whom may be presumed to be utterly ignorant of this special subject.

It is generally supposed that the right to establish their own tariffs gives great power, liable to abuse, into the hands of railroad managers, but upon closer investigation it will be found that the extent of this power is generally much over-rated. Enlightened self-interest dictates its exercise reasonably, and in a spirit of liberality; competition, especially with

water transportation, circumscribes it into the narrowest limits, if it does not nullify it altogether.

On the roads operated by the Louisville & Nashville Railroad Company the maximum legal rates authorized by the charter vary from 7 to 10.2 cents per ton per mile. The average actual charge made is 2.172 cents. Why does not the company charge more, having an undoubted right to do so? Other causes than the mere will of the managers limit the charges. In one case it is competition, in another the freight is of such a character that it cannot bear higher charges, or both of these causes are in operation at the same time.

I can assert from my personal experience that on 920 miles of railroads, stretching in all directions over a large territory of country, the managers have no more to do with the making of the tariffs than to study the conditions and limitations to which I have referred, and to conform to the same. The result is that the tariff charges on these roads are but from 20 to 30 per cent. of the maximum authorized by law. I can also affirm that a similar state of affairs exists in regard to the large number of railroads with whose affairs I am acquainted.

If the mere will of the managers, unchecked by other considerations, had absolute control over railroad tariffs, would it be likely that so many roads in the United States would be in the hands of receivers; so many more unable to pay dividends to stockholders; so comparatively few paying the usual interest on the cost of construction; and so few paying a larger interest?

Any one who asserts that the railroads in this country as a whole are guilty of extortion only shows his own ignorance of the facts, easily accessible, and exhibited by the statistics in regard to the financial result of railroad operation in the United States. The truth is that the people of this country are furnished with transportation for less than its cost, at the expense of the owners of railroad property.

The general practice of citing one or two cases of unreasonable railroad charges, or a few cases where railroad companies pay dividends upon watered stock, and basing upon this the charge that all or the great majority of railroads in the country are doing this, is manifestly unjust. If the charge is made

against the railroad system as a whole, it stands refuted by the general result of its operations as a whole.

That errors are committed by railroad managers in arranging their tariffs, especially in details, can not be denied (and this is equally true in other important human avocations), nor can it be wondered at, if we bear in mind the complications and difficulties of this work. But as the interests which are intended to be served necessarily suffer from these errors, it should be presumed that they are the result of ignorance rather than evil intent, and the only correction in this matter is better information, sounder judgment, and greater intelligence. If these requirements could be supplied by legislation, the end would be accomplished. Much might be done by instituting intelligent inquiry and investigation of the facts bearing upon the subject, and by disseminating the result among the people. In this direction legislative influence should first be exercised.

GOVERNMENTAL RAILROAD TARIFFS A FAILURE.

The foregoing consideration of the subject of legislative control of railroad property leads to the following conclusions :

First, that such control can not be exercised by general laws establishing fixed railroad tariffs without a violation of the rights of the parties owning the property.

Second, that it is impossible under such fixed railroad tariffs to fully develop the usefulness of railroads to their owners and the people.

The experience of the past regarding special railroad legislation confirms the correctness of these conclusions.

Mr. Charles F. Adams, Jr., sums up the result of his thorough investigations of the subject of governmental interference with railroad tariffs in the report of the railroad commissioners to the Legislature of the State of Massachusetts. Referring especially to Great Britain, he says, "Nowhere has the system of special legislation been more persistently followed, and nothing, it may be added, could have been more complete than its failure."

And again: "The result of thirty years of successive and wholly abortive efforts in this direction in England has been

that Parliament has at last settled down in the conviction that the developments and necessities of trade in practice always have nullified, and inevitably must nullify, the special acts, no matter how carefully and skillfully they may be prepared."

PREVENTION OF EXTORTION AND UNJUST DISCRIMINATION.

It is only surprising that it should have required thirty years to establish a fact that must appear evident at once if we thoroughly analyze the nature of the object sought to be attained, and the instruments and means available for its attainment, and still more surprising when we consider that the object of all the efforts referred to could be simply reached by enforcing the *common law*, which *prohibits common carriers from making unreasonable charges* for transportation.

Let the parties guilty of a violation of this law alone be held responsible. This course has been deemed sufficient heretofore to prevent wrong doing, and if followed and adhered to, should also be sufficient to prevent extortion on the part of railroad companies.

It has been urged against the efficiency of the law that the expense of litigation deters individuals from seeking redress. To remove this objection the State could provide an indictment against offending railroad companies, and throw the cost of litigation upon the commonwealth. It has also been urged that it is difficult, it not impossible, to make proof of the unreasonableness of railroad charges. Several plans have been proposed to remove this objection.

The House of Representatives of the United States proposed a law by which nine commissioners were to guess at the rates which should be considered reasonable. I say *guess*, because it would be entirely impossible for nine men to ascertain what are reasonable rates, upon correct principles, for all roads in the United States.

The Legislatures of some States have adopted arbitrary tariffs, which are to be considered reasonable until proved otherwise. The object of these measures is simply to throw the burden of proof as to the reasonableness of transportation charges upon the railroad companies. But in so doing it raises fictitious issues; it declares certain things reasonable

which are not so, and makes an untruth the basis upon which a legal action is to be brought.

It is difficult to perceive why all this complicated machinery was invented to reach an object that can be simply reached by enacting a law which shall throw at once the burden of proof upon the railroad companies. Such a law would be perfectly just and proper. It is the business of the common carrier to know when he establishes a tariff that it is in accordance with the requirements of law ; and having all the facts bearing upon the question in his possession, he should have no difficulty in making the proof.

A rigid and frequent application of the law as above suggested, to railroad carriers, would soon prove whether the many complaints made are based upon facts or upon fiction. The judicial investigation in a number of cases, aided by the testimony of experts in railroad management, would soon bring to light and establish the proper principle upon which questions as to extortionate rates and unjust discriminations should be decided ; and it would not be long before people would learn to understand and look upon the subject in its proper light.

The present persecution of railroads, which in some parts of the country has become a mania, is not unlike the persecution of witchcraft in former years. It must cease as soon as intelligence has taken the place of ignorance. When this point has been reached many of the supposed difficulties of the railroad problem will be solved.

It has been with a view of contributing something toward this desirable end that I have discussed the subject in this report at so great length.

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FORMULA FOR ASCERTAINING THE COST OF RAILROAD TRANSPORTATION PER TON-MILE;

SHOWING ALSO, WITH REFERENCE TO THE ITEMS OF EXPENDITURES ON PAGE — , THE VARIOUS ELEMENTS ENTERING INTO THE CALCULATION OF COST.

$$\text{Movement expenses per ton-mile} = \frac{\text{Movement expenses per train mile (items 41 to 74)}}{\text{average number of tons of freight in each train}} = a.$$

$$\text{Station expenses per ton-mile} \dots = \frac{\text{Cost of handling freight (items 30 to 40) at forwarding station + at delivery station}}{\text{length of haul}} = b.$$

$$\text{Maintenance of road per ton-mile} = \frac{\text{Cost of maintenance of road per mile per year (items 1 to 29)} \times \frac{\text{total miles run by freight trains per year}}{\text{total revenue trains, pass. and fr't pr. yr.}}}{\text{average number of tons of freight transported over one mile of road per year}} = c.$$

$$\text{Interest per ton-mile} \dots \dots \dots = \frac{\text{Cost of road per mile} \times \frac{\text{rate of interest per annum}}{100} \times \frac{\text{number of freight train miles per year}}{\text{number of revenue train miles, fr't and pass., per year}}}{\text{average number of tons of freight transported over one mile of road per year}} = d$$

$$\text{Total cost per ton-mile} = a + b + c + d.$$

In order to make use of this formula it is necessary to know the fifty-eight items of expense enumerated on page —, all of which vary on different roads, and enter into different combinations with each other. Some of the items of movement expenses (— to —) change with the weight of trains, and have to be ascertained in each individual case. The average cost for the year can be made the basis of the estimate. Besides the items shown on page —, the following other items enter into the calculation; the average number of tons of freight in train per mile of the round trip of the train, the average length of haul, the number of miles run over the road with freight and passenger trains per annum, the cost of the road, the rate of interest, and the total number of tons of freight carried during a year over one mile of road. Without these data it is impossible to make a correct estimate of the cost of transportation on railroads.



ARGUMENT

BEFORE THE

COMMITTEE OF COMMERCE

OF THE

SENATE OF THE UNITED STATES,

ON THE

REAGAN BILL,

FOR THE

REGULATION OF INTER-STATE COMMERCE.

BY

ALBERT FINK.

Washington, February 11, 1879.

NEW YORK :

RUSSELL BROTHERS, PRINTERS, 17, 19, 21 & 23 ROSE STREET.

1879.

MR. CHAIRMAN :

The first and second sections of the Reagan Bill provide that the rate of railroad transportation shall be the same to all persons for like service, and that no rebate, drawback, or other advantage in any form, shall be given to any person. The object of this bill is to secure to all shippers in the country reasonable, equitable, and permanent rates of transportation, and to avoid unjust discrimination not only between the individual shippers at the same locality, but also between the shippers at different localities. If this object can be attained, then this bill ought to have the cheerful support of every citizen, be he merchant, manufacturer, miner or agriculturist, railroad proprietor or railroad manager; it would at once solve one of the most complicated and difficult problems that has engaged the attention of the best minds of all countries during the past half century. Does this bill solve that problem ?

NO PROVISION IS MADE FOR THE ENFORCEMENT OF A JUST
AND UNIFORM TARIFF.

In the first two sections the bill simply reasserts the principle that has always been recognized in the common law of the country governing common carriers, but has hardly ever been enforced in practice. Does this present bill make any provision for carrying this principle into practical execution in such a manner as to remedy the existing evils which have arisen from a violation of the common law, and which this bill is intended to correct? In my opinion it does not. After the Reagan bill has become a law, we have no assurance whatever that there shall be no longer any discrimination or differences in rates for like service performed to persons at the same locality, nor does it insure that like rates of transportation shall be maintained with any degree of permanency, or that the rates from different localities shall be so adjusted as not to be unjustly discriminating.

Take for example the five roads terminating at Chicago, engaged in carrying the traffic from there to the seaboard. Road No. 1 establishes to-day a rate of 40 cents per 100 lbs. from Chicago to New York; Road No. 2 may make to-morrow a rate of 35; Road No. 3 the next day a rate of 30 cents, and Road

No. 4 on the following day a rate of 25; and the fifth Road on the fifth day a rate of 20 cents. This may be done when the Reagan bill is in force, as it is done now without it. The shippers on the fifth day may have to pay only one-half the rate paid by the shipper who is obliged to ship on the first day. The bill, therefore, does not secure uniformity and permanency of rates of transportation to the shippers from the same locality for like service, as it is expected to do. Neither does it secure to shippers from different localities equitable, permanent and non-discriminating rates. What assurance is there that the rates from St. Louis to New York, which ought to be higher than the rates from Chicago, on account of its greater distance from New York, may not be lower than the rates from Chicago, at the same time? They may be 40 cents from Chicago to New York when they are only 25 cents from St. Louis. What is there to hinder it? Is there any provision in the Reagan bill that prohibits this unjust discrimination? The fourth section of the bill evidently was intended to have that effect. But have not the Chicago roads under this bill the right to make any rate they please from Chicago, and have not the St. Louis roads the right to make any rate they please from St. Louis? These roads are independent of each other. How then is the object of the fourth section of the bill, which is intended to secure to shippers at different places non-discriminating rates, to be carried into practice? As the bill now stands it cannot be carried out.

PRINCIPLE UPON WHICH PRESENT RAILROAD TARIFFS ARE BASED.

It is the practice of competing railroad companies to establish at all places where they come in competition a joint tariff, according to which the rates are made the same to all persons for like service, and to adjust the tariff from the different localities, to each other, upon the mileage basis—that is, according to the distance of the localities from the common points to which shipments are made, or nearly so.

The rates that are established by agreement from Chicago to New York form the basis of all rates from every point in the territory east of the Mississippi, north of the Ohio River and the seaboard. The rate from East St. Louis is made exactly six-

teen (16) per cent. more than the rate from Chicago to New York, because St. Louis is sixteen (16) per cent. further than Chicago from New York. From Indianapolis the rate is made nine (9) per cent. less, also according to distance, and so on.

There can be no principle more correct than the one upon which the transportation tariffs of the country are now based ; Congress could not suggest a better one. Under its operation the fourth section of the Reagan bill, according to which freight shall not be carried at a greater cost over short distances than it is carried over longer distances, would be fully carried out from all competitive points. No serious difficulty is experienced by the competing railroad companies in the country in agreeing upon and establishing tariffs entirely satisfactory to the commercial community and to the people. An examination of the tariffs that have from time to time been established would show that they are based upon principles recognized by all commercial men as correct, and fully in accordance with the laws governing common carriers. The evils which the Reagan bill wants to remedy do not arise from defective or badly constructed tariffs, but they arise from the failure to carry these well devised tariffs into execution, and *here lies the whole difficulty of the transportation problem.*

WHY ARE THESE ESTABLISHED TARIFFS NOT ENFORCED ?

These tariffs are not enforced simply because each of the many competing railroad companies, after having agreed to maintain a joint competitive tariff, is left at liberty to depart from it whenever it pleases. If a company hopes to secure a few additional tons of freight by a rebate or a drawback, it pays it in violation of its voluntarily assumed obligation to adhere to the tariff. This action, although intended to be secret, is discovered by the watchful eyes of its competitors and might as well have been taken openly as it will have to be hereafter, if the Reagan bill becomes a law. No sooner is the agreed tariff departed from by any one of the many competitors, than all the others follow, as they necessarily must. The consequence is that the properly constructed tariff falls to pieces from the touch of a single hand like a house of cards. Where before there was a symmetrically arranged structure there is now nothing but a

confused heap of the material with which it was constructed. Where before equal rates were charged to all persons for the same service, and where proper relations existed between the tariff of all commercial communities, avoiding unjust discrimination between individuals or communities, there is now nothing but chaos, each man at every place has now his own tariff and his own classification, regardless of what other parties have. The rates are changed from day to day—even from hour to hour; the through rates are lowered, while the local rates remain comparatively high.

When by this process the rates have become as low as they possibly can go, the railroad managers meet and with one stroke of the pen the rates are raised at once from the lowest depth to the highest pitch—say from a 15-cent rate from Chicago to New York to a 40-cent rate. Thus are produced all the evils which the Reagan bill proposes to remedy. They follow as the natural consequence of the action of perhaps a single railroad manager, at whose mercy, or whim, or selfishness, the people of the whole country are made to suffer—not only those who use, but also those who own the railroads. It is a wonder that the people have allowed this abuse to go on so long.

Will the Reagan bill, if it becomes a law, put a stop to it? It will not. The bill makes no provision that reaches the root of the evil. It makes no provision for the establishment and maintenance of a just and properly constructed tariff. It does not restrict any of the numerous railroad companies from making at any time, each for itself, whatever rate it chooses to make, regardless of the rate that may be made by its competitor in the same city or in distant markets.

As long as this liberty is not restricted, and the Reagan bill does not restrict it, no security whatever is offered to the public that the same confusion of tariff, the same unjust discrimination between shippers in the same locality, and the same violent fluctuation in rates, will not take place with all the attending evils, after, as well as before, the Reagan bill becomes a law.

The fact that one and the same line of transportation can, under the Reagan bill, make only one rate to shippers from the same locality for like service during five consecutive days, does not insure that some other line will not make a different rate; the effect of which is precisely the same as if the same line

of transportation could make, as it now does, different rates for like service to different shippers, and this is exactly what the Reagan bill wants to prevent.

A FEATURE OF THE BILL THAT MAY WORK SOME IMPROVEMENT BY INDIRECTIONS.

There is, however, one feature of the Reagan bill that may possibly work some good, but, unfortunately, only by indirection, and in spite of the spirit and declared object of the bill. The reductions of tariff which are now generally made secretly would hereafter have to be made openly; this is the only difference between the method now in use and the one proposed by the Reagan bill. The provision of the bill, according to which the tariff has to be published five days in advance of its going into effect, will have the tendency to consolidate the present loose combinations between railroad companies in establishing their joint competitive tariffs, and the penalty imposed for a violation of the published tariffs, will enable the roads to maintain the tariffs more permanently than they could do without this restraint. In this respect the Reagan bill will work an improvement, but this result is by no means *certain*.

Suppose, for example, that after an agreement to maintain certain tariff rates from Chicago, any one of the numerous routes from Chicago to New York—and there are some fifteen—finds that it cannot secure any business, or not as much as it thinks it ought to have, it will give notice to the other roads that in five days its tariff will be reduced. This will at once destroy the equality of rates unless the other roads make similar reductions, and if they do, then the permanency of rates will be destroyed. However, the practical result most likely will be, that in order to prevent the general reduction in rates, the roads will agree to let the dissatisfied road have a certain proportion of the business by permitting it to lower its rate to a certain extent, while the other roads keep up theirs until the agreed additional tonnage has been thrown upon the road that could not get, under equal rates, a satisfactory share of the business. The method is precisely the same, in effect, as the pooling of the business, which latter is forbidden by the bill. There is no law, however, which forbids a road to lower its rates, nor is it likely that such a law would be enacted, and hence the provision of the bill according

to which no pooling is to be allowed, can be readily evaded, like all laws that are not properly considered.

The fact is, that the objects of the Reagan bill can only be attained by the process which I have just described, no matter by what name it may be called, although it is in direct violation of the provision and the spirit of the bill. All the good that the bill can possibly accomplish must be accomplished by indirection. I take for granted that this is not the proper method in which the American people want to deal with so important a subject.

WARFARE AND COMPETITION BETWEEN RAILROAD COMPANIES MUST BE RESTRICTED.

It ought to be understood and frankly acknowledged that in order to carry out the object of the Reagan bill it is absolutely necessary,

First—That all the railroad companies competing with each other must agree upon a joint competitive tariff, the same by all routes between the same termini, and equitably adjusted as between all competing points in the country so as to secure to the shippers the same rates for like service, and to the different communities, just and non-discriminating rates.

Second—That a tariff so arranged must be strictly adhered to by all competing roads, until it is changed again in the same manner and upon the same principles as that upon which it was first established.

It is only in this way, and in no other, that the object of the Reagan bill can be carried into practical execution, *and that a stop can be put to the existing evils.*

These measures, of course, cannot be carried out without restricting, to a certain extent, the competition between the individual transportation companies, and for this reason Congress may be afraid to put them in operation; but it might as well be attempted to mix fire and water into a homogeneous mass as to attempt to secure to the people of this country the maintenance of an equitable and just transportation tariff, and at the same time leave the competition between the transportation companies as it now is—unrestricted by any law. The existence of one condition of affairs excludes the existence of the other.

The question for Congress to decide, is, which will they have? If it be decided that the present method of competing between railroad companies is beneficial to the public, then, the people must accept with it all the attending evils; and if, upon the other hand, it is admitted that the present evils of the transportation business are unendurable, then the proper remedy is to restrict the competition or warfare as it now exists between the railroad companies.

I am, of course, an advocate of the latter proposition, believing that it will be to the interest of the public that there should be a proper and just tariff maintained, and that all unjust discriminations should be eliminated from the transportation business. I am aware that there will be great objection raised to any measure looking to the restriction of competition, for fear that the rates of transportation would thereby be increased. I believe this fear to be entirely without foundation, knowing that it is impossible to eliminate from the transportation business, all elements of legitimate competition, and that it is only a species of competition, of a very unhealthy character, that must necessarily be restricted, in order to carry out the objects of the Reagan bill.

WHAT CONSTITUTES HEALTHY AND UNHEALTHY COMPETITION —THE LATTER TO BE RESTRICTED.

It will be necessary to explain what I mean by healthy, permanent and legitimate elements of competition which enter into the construction of railroad tariffs, and what are the incidental secondary elements, which act not only spasmodically and without law, but simply according to the whims or selfishness of railroad companies, and which work so much mischief to the public, as well as to the railroad companies themselves.

When competing railroad companies establish a joint competitive tariff, they take into consideration all the legitimate elements of competition that may have a bearing upon the tariff, and these are many. Thus, in establishing the rates from Chicago to New York, they will consider the lake and canal competition, and determine their own rates in such a way as to secure a reasonable share of the business against these competitors. It will be admitted that, between water competition and rail competition there can be no permanent combination. Now,

considering further that the rate from Chicago to New York controls the rates all over the country, viz.: the rates from St. Louis, Indianapolis, Louisville, Columbus, etc., to New York, and that the rates from these places to New York govern again the rates from the same places to Boston, Philadelphia and Baltimore, it will appear that the rates of transportation throughout this great territory, and to and from all places beyond the points named, are controlled and influenced by the competition with the lakes and the Erie Canal.

It may be said that this is true only during the season of navigation, and that in winter the railroads might, by combination, exercise absolute control over the rates. There are, however, many other influences at work, which are constantly controlling railroad managers in the formation of their competitive tariffs. Thus in the winter time, when the lake and canal navigation is closed, the rates from Chicago to New York would be influenced by the lower water rates from St. Louis to New Orleans. Were the managers of the Chicago or St. Louis roads inclined to charge exorbitant rates, they would soon find that traffic would be diverted to St. Louis and down the Mississippi River. Even if there were no Mississippi River, other considerations would influence the rates of transportation from Chicago to New York. If these rates were made too high during the winter months, only a small amount of the grain crops of the West would be marketed during that time; grain would be stored, awaiting the opening of navigation.

In most cases it is only a question of interest upon the capital invested, whether to keep the grain in store for a few months, and ship after the opening of navigation at lower rates, or to ship immediately at the higher rates. If railroad companies were to charge much more than the cost of water transportation, plus the interest on the capital invested and plus the cost of storing the grain, a considerable portion of the grain shipments would be withheld until the opening of navigation.

In addition to all these influences, the market value of grain in Europe, and the competition with other sources of supply from other countries, influence the rates of transportation from the West.

I refer to these various elements, that always are and must be considered in establishing railroad tariffs, for the purpose of

explaining what I mean when I assert that legitimate competition cannot be eliminated by any combination between railroad companies.

Although referring here only to a special case—the tariffs from the West to the East—it can be demonstrated that the same or similar influences exist *in all cases*, at least in this country, where the navigable rivers, lakes and ocean afford cheap means of transportation and a complete check on any attempt of railroad managers to charge exorbitant rates.

I will now explain what I understand by the species of competition which must be eliminated, if the object of the Reagan bill is to be attained. When the transportation lines from Chicago and all other points to the East have agreed upon a joint tariff and properly adjusted rates of transportation, after taking fully into consideration the legitimate elements controlling the competitive rates, then the contest generally commences between these various lines themselves as to the quantity of the total competitive business that each is to carry. And it is in consequence of this contest that the well devised, just and proper tariffs of transportation are sacrificed and all the evils which the Reagan bill intends to remove are developed.

METHODS AS NOW PRACTICED BY RAILROAD COMPANIES TO CARRY OUT THE OBJECT OF THE REAGAN BILL.

The methods that have been proposed for the purpose of avoiding this sort of competition, by the railroad companies themselves (and they are just as anxious to see the *object* of the Reagan bill carried out as the public), contemplates that the traffic from competing points be apportioned between the competitors, satisfactorily to the parties in interest, in order thus to remove all motive for paying rebates and drawbacks, and to prevent the frequent changes in rates. So far, where such arrangements have been made and faithfully carried out, it has been possible to secure to the people like rates for like service. This method, generally known under the name of pooling (a misnomer), is to be forbidden by the Reagan bill, although it is the only one by which the object of that bill can be carried into practical execution.

Fully impressed with the necessity of reform in the transportation business, both in the interests of the people as well as

in the interests of the railroad companies, I have myself for the last three years endeavored to induce the railroad companies, by voluntary action and organized co-operation, to adopt such measures as are absolutely necessary to practically secure the object of the Reagan bill; but I am free to say that these efforts, so far, have been only partially successful. It is my opinion that the objects of the Reagan bill cannot be secured except by the aid of Congress—not, however, in the way proposed by this bill. A much simpler law would accomplish the purpose.

PROPOSED AMENDMENTS.

The opponents of the bill have been reproached for having failed to offer substitutes that would remove their objections to the bill. This makes me venture to suggest an amendment to the bill, viz.: To strike out every section after the second, except such as provide merely for the machinery by which the bill is to be carried out, and then add the following:

SEC. 3. That all competing railroad companies shall jointly establish a tariff from all competing points.

SEC. 4. That the tariff so established shall be submitted to a Commission of Experts appointed by the Federal Government, and if they find that the tariff is just and equitable, and based upon correct commercial principles, and not in violation of the common laws governing common carriers, then such tariff shall be approved, and shall become the law of the land until changed in the same manner by the same authority.

SEC. 5. In cases where railroad companies cannot agree upon such tariffs, or upon any other questions such as might lead to a war of rates between railroad companies, the questions of disagreement shall be settled by arbitration, the decision of the arbitrator to be enforced in the United States Courts.

I merely desire to express the general principle that should be embodied in the Reagan bill without going into details, which I think it will not be difficult to arrange. Nor will I detain the Committee with urging the many reasons which lead me to

believe that, with the foregoing amendments, the object of the Reagan bill could be fully carried out, and that without some such provision, it will be impossible to do so.

In offering the above amendment to the Reagan bill, it is proper to say that I do so on my own responsibility, and without having consulted any railroad managers or proprietors. To what extent these amendments would meet their approval, I am, therefore, not prepared to say.

In concluding this portion of my argument, I will mention that in Germany the railroad tariffs are established in a way similar to that proposed. They are prepared first by each separate company; then the various competing companies meet in counsel and arrange a joint tariff, which is submitted to the government, and when approved it becomes the tariff of the country, and cannot be changed except by the same process by which it was established.

The difficulty of the railroad problem in Germany does not arise from a want of carrying out the established tariffs, but from the fact that so many small and separate interests cannot readily agree upon a joint tariff, especially as the business has to be transacted there upon the circumlocution principle. This difficulty could only be overcome by adopting a provision similar to section 5 of the proposed amendment, and for the want of which the railroad problem in Germany is just as troublesome as it is here.

In this country the practical sense of the railroad managers has long ago established a quick and ready method of making tariffs, and there are now in existence properly constructed tariffs for all parts of the country that can readily be changed to suit the commercial exigencies. The difficulty is that these tariffs are not being maintained. And it is not in the power of any one or a great number of railroad companies to adhere to them, simply because *it requires the coöperation of all competing lines, without exception*, to accomplish that result. This necessary co-operation, I am convinced, can be secured only by the authority of Congress, under some such legislation as I have above suggested.

Having considered the fundamental principles of the Reagan bill, I will now refer to some of its other features.

CONTINUOUS SHIPMENTS CANNOT BE ENFORCED, HENCE THE
OBJECTS OF THE REAGAN BILL CANNOT BE CARRIED OUT.

The Reagan bill applies only to property which is carried continuously. It forbids railroad companies entering into "any combination contract or agreement, by changes of schedule carriage in different cars, breaking car loads into less than car loads, with intent to prevent the carriage of such property from being continuous."

In considering this provision of the bill, it ought to be known that the present practice of making continuous shipments in the sense here mentioned, has been introduced by the voluntary action of a number of railroad companies forming a continuous line between the points of shipment and destination. These companies generally enter into an agreement to let the cars of any one company run over the roads of the others for the purpose of preventing change of bulk. They also enter into an agreement by which the terminal roads, at the point from which the shipment is made, issue through bills of lading, and assume to the shippers the responsibility of delivering the goods at the point of destination. The terminal road at the point of destination collects the whole freight charges and makes settlements with all the roads in the line, acting as collector for them. These arrangements are of the greatest importance to the commercial community. In former times, before the establishment of these excellent through lines, a merchant making a shipment to points that could be reached only by passing over more than one road, had to consign his goods to some commission merchant at the junction of the several roads, who attended to the transfer of the goods. In many cases no direct rail connections existed between the different roads; or if such connections did exist, the shipper might consign the goods to the next carrier, the responsibility of each carrier ceasing with the delivery of the goods at the end of his line. No through bills of lading were given. In case of loss of the goods, the shippers had first to ascertain on what particular link of the line the goods were lost—a work of some difficulty—and when at last discovered, he had to bring suit, at great expense, in a different

State, where he could not personally attend to it, and in which different laws prevailed from those in the State in which the shipment originated.

It ought to be borne in mind that the great improvements introduced in the transportation business since the time to which I refer, were made altogether voluntarily by the railroad companies without legal or any other constraint, and without cost to the shipper. They were introduced merely from a desire on the part of the railroad companies to accommodate the wants of trade and commerce, and by benefiting the people benefit themselves.

The Reagan bill now assumes for the first time that Congress has the power to force railroad companies to form through lines, and compel them to make continuous shipments, whether they wish to do so or not. The whole bill is based upon this fallacious theory.

The obligation of a railroad company as a common carrier ceases when it delivers the goods at the end of its own line. If it assumes responsibility beyond, and engages to deliver the goods at some distant points reached only by other lines of transportation, it no longer acts in the capacity of a common carrier under its charter as such, but simply as a forwarder. The Supreme Court of the United States has decided [*Railway Co. v. McCarthy*, VI. Otto, 258] that common carriers can act as forwarders, but they cannot be forced by any known laws to assume the responsibility of forwarders against their own will.

While Congress has the right to regulate commerce, has it a right to say that the Erie Railroad, for example, shall, without compensation, assume the responsibility of any damage or destruction that may occur to a shipment of goods destined to St. Louis *via* the Erie Railroad, while passing over the Atlantic and Great Western Railroad?

Has it even a right to say that it shall assume this responsibility for a certain compensation? If so, what shall be the compensation? Has Congress a right to order that the cars of the Erie Railroad shall pass over any of the Western connecting roads in order to make a continuous shipment under the provision of the Reagan bill, when the connecting roads may not want to use the cars of the Erie Railroad? But if Congress has the power to order the property of one road to be used by any

other road, has it also the power to fix the compensation for the use of that property? Suppose the connecting roads do not wish to pay what the Erie Railroad demands for car hire, is Congress to determine the question how much shall be the compensation?

I take for granted that the proper answer to these questions will show that the Reagan bill proposes to legislate upon a subject for which there is no constitutional warrant.

But suppose it could do all it proposes to do, can it make a car built to run on a gauge of four feet eight and a half inches run over a road of six feet gauge? Can it force the cars of the Ohio & Mississippi Railroad, for example, to run over the Atlantic and Great Western road? Can it force the cars of the American roads—the New York Central, Erie or Boston and Albany roads—to run over the Canada roads which form part of the through line between Chicago and the seaboard and are not under the control of Congress? I believe it cannot.

The bill very properly makes an exception. Section 1 provides that “no break, stoppage or interruption * * * shall be made, to prevent the carriage of any property, unless such stoppage, interruption, contract, arrangement or understanding was made in good faith for some practical and necessary purpose.”

The cases which I have just mentioned no doubt must be considered as proper exceptions that could be made in good faith, but these very exceptions must necessarily prove fatal to the bill. They nullify the practical value of all its other provisions.

Are the Erie, Atlantic and Great Western and Ohio & Mississippi Railroads, for example, to be allowed to carry goods between New York and St. Louis, and are the several lines through Canada, between New York and Chicago, allowed to carry goods between those points at whatever rates they please? Are they to be allowed to pay rebates and drawbacks and keep their tariff a secret, while the Pennsylvania Railroad, controlling lines of transportation to these points, exclusively its own, directly competing with the first named roads, must publish its tariff five days in advance, can pay no rebates and drawbacks, but must adhere strictly to the published tariff rates?

But apart from the gross injustice which this bill would enact

to some transportation lines, how can it be expected that a law which exempts some lines entirely from its operations, and enforces it upon another, can stop discrimination between shippers.

For example, under the operation of the proposed law, the Pennsylvania Railroad's business to St. Louis, is likely to be altogether destroyed on account of its inability to compete with the lines of the Erie, Atlantic and Great Western and Ohio & Mississippi Railroads, to which the law does not apply. The shippers over the latter lines, or over the Canada Roads, to which the law also does not apply, can always have rebates or drawbacks, and reductions from the published rates, while the shippers over the Pennsylvania Railroad must pay full tariff rates. Its effect, therefore, will be to create and enforce, legally, the very discrimination which it intends to abolish.

If one stone in the arch is removed the whole superstructure resting upon it must fall to pieces and so must the Reagan bill, if it cannot be applied to *all competing transportation lines alike*.

As Congress has not the authority to force railroad companies to make continuous shipments as contemplated in this bill, and to act as forwarders against their will, the Pennsylvania Railroad, in order to compete with its more fortunate rivals would only have to discontinue the continuous shipments, in which case the only practical effect of the bill would be to deprive the people in this country of one of the most important and most useful transportation facilities.

EXEMPTION OF WATER LINES, UNJUST AS WELL AS FATAL TO THE PRACTICAL WORKING OF THE BILL.

The next feature of the bill to which I wish to refer is this—the bill exempts from its operation all common carriers by water routes, and common carriers part by water and part by rail routes.

The same argument and reasons just named in regard to the injustice, as well as the impolicy, of exempting one or more rail lines from the operation of the law, apply with the same force to this exemption of water lines. If it be proper and right that common carriers by rail shall not discriminate unjustly between shippers; that they shall not pay rebates and drawbacks; that they shall publish their tariffs five days in advance, why is it not

right and proper that common carriers by water shall do the same?—especially when railroad companies and steamships and canal lines are competing with each other, and when it is impossible to carry on fair and honest competition if one of the competitors is to be bound hand and foot and the other is allowed to do as it pleases. The free competition between rail and water lines is one of the safest regulators of transportation rates in this country, and ought rather to be encouraged than prohibited. The practical effect of the Reagan bill, if enacted, will be either to break up continuous shipments or to drive the railroad companies out of competition with water lines or to force both to combine, which latter has heretofore not been the case. To explain what I mean :

A railroad company publishes its tariff, which becomes known to the competing steamship lines and enables the latter thereby to offer secretly a reduced rate, sufficiently low to secure the business; the railroad company not being able to secure any share of the traffic under the circumstances, keeps on reducing rates until they become so low that there is no profit to the steamship line. The natural consequence is an agreement to raise the rates and to divide the business between the competitors in the manner already explained, which can readily be done without violating the provision of the bill prohibiting pooling.

Now, this may be a proper solution of the problem; but I call attention to the inconsistency between what the bill proposes to do and what in my opinion it will do, and to show that whatever good this bill could possibly produce could be done only by indirection.

If the principle upon which the Reagan bill is based is a correct one, it ought to be applicable to all classes of common carriers without distinction; if this be not the case, it is proof in itself that the principle is not correct.

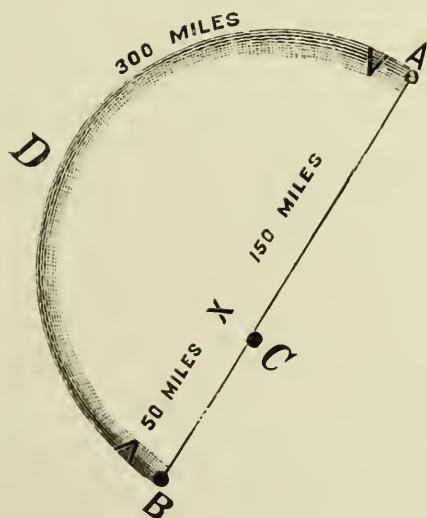
TRANSPORTATION CHARGES MAY BE MORE FOR SHORTER THAN
LONGER DISTANCES.—BY NO GENERAL RULE CAN JUST
AND UNJUST DISCRIMINATION BE DEFINED.

I come now to the consideration of the fourth section of the bill which provides that it shall be unlawful to charge more for carrying property for shorter distances than for a longer distance.

I have already shown that if the competitive tariffs established throughout the country could be properly enforced, there would be, so far as competitive business is concerned, no necessity for this restriction.

All intelligent railroad managers acknowledge the principle embodied in this section to be one that should be followed whenever a violation of it would cause an unjust discrimination against the shippers of any locality.

An examination of the competitive and local tariffs of well managed roads, will show that in most cases the tariffs are arranged upon this principle, but there are cases in which a departure from it does not unjustly discriminate, and in which the enforcement of this section would work great injustice to the railroad companies. To prove the correctness of this assertion, I will assume a case, which represents many that occur in this country, mostly however in the local business.



Let A D B represent a navigable river, the places A and B being cities, between which intimate commercial relations exist. Let C be an interior town 50 miles from B, and 150 miles from A.

The cheapest mode of transportation from A to C before a railroad was built, would be *via* river from A to B and from thence by wagon to C.

Say the distance by river from A to B is 300 miles, from B to C by turnpike 50 miles, and that the cost of transportation by

river is half a cent per ton per mile, and by turnpike 12 cents per ton per mile.

To ship a ton of freight from A to C would cost $300 \times \frac{1}{2} \text{c.} = \1.50 , plus from B to C $= 50 \times 12 = \$6.00$ —total cost, \$7.50. Now suppose a railroad is built from B to C which reduces the cost of transportation to the person living at C from twelve cents per ton per mile to three cents, so that he can ship at \$3 per ton from A to C. Now suppose the railroad company concludes to extend its line from C to A, involving the outlay of a large amount of capital. After this is accomplished, the Reagan bill prescribes that the railroad company shall carry freight from A to C at \$1.50 per ton, at the same rate at which freight is carried by river from A to B.

The shipper at the interior point C, had always to pay something for transportation from the river to this place; when no railroad was built, \$6.00 per ton; when the road was built from B to C, \$1.50 per ton; and now since the capital and enterprise of the Railroad Company has extended the road from C to A, his transportation from the river is practically to be made free.

If it be the object of the Reagan bill that no difference in the cost of transportation shall exist, whether people live on navigable rivers, or in the interior of the country, then Congress should make an appropriation for free transportation from river points to all interior points, but should not put the burden of furnishing free transportation upon railroad companies. There seems to be no good reason for legislation of this kind, even if Congress had the authority to determine what a shipper in certain places is to pay for his freight.

The shipper at C is fully protected by the provision of the common law, according to which only reasonable rates can be charged to him; he may be fully protected by the charter of the States through which the road passes, and which generally confine the railroad charges within certain limits, and he is also protected by the low rates of river transportation, as he can continue to ship via river from A to B, and via rail from B to C at \$3 per ton. The railroad company cannot charge more for a direct shipment from A to C than this sum, which is, in the assumed case, at the rate of 2 cents per ton per mile—not an extravagant charge considering the cost of construction of the road through, perhaps, a mountainous and sparsely settled country.

Although this rate of \$3 per ton for a distance of 150 miles, is more than the rate from A to B via railroad, which is only \$1.50 per ton for 200 miles as limited by the river competition, this charge cannot be considered an unjust discrimination. And yet the Reagan bill, in order to prevent supposed unjust discrimination, proposes to have Congress determine at what rate a railroad company shall work, regardless of the cost to that company, and regardless of its rights which are conferred upon it by the State laws, and the rights which it has under the common law, to charge a reasonable compensation.

RESTRICTIONS OF THE BILL TO CAR LOAD SHIPMENTS DEFEATS ITS OBJECT.

One of the weakest features of the bill is the one to which I shall allude last. It is contained in the Ninth Section, and restricts the operation of the proposed law to *car loads* of freight only.

After making the most elaborate preparation to prevent unjust discrimination, this last provision of the bill nullifies completely all the benefits which could possibly be derived from the bill, in its application to a very large and important portion of the traffic, and it excludes from the benefit of the bill by far the greatest number of people, and legalizes unjust discrimination to a greater extent than it now exists.

If a merchant has a car load of sugar to ship from New York to Chicago, he has to pay the published tariff rates, but if his neighbor has half a car load to ship, or three quarters of a car load to the same place, a railroad company may give him whatever lower rate it may wish to make, by rebate or otherwise, to secure his shipment. Under these conditions there would hereafter be but few shipments by car loads.

If a shipper has to ship 12 car loads from New York to Chicago or from Chicago to New York, he could divide it and ship four fifths of a car load by each of the 15 routes by which freight is carried between these two places.

What necessity would there be of a Reagan bill when no more car load shipments would be made? No law can compel a shipper to ship by the car load if he finds it to his interest to ship less than car loads at a time.

This peculiar provision of the bill would introduce an entirely new feature in the transportation business. It would either put large shippers to great inconvenience to break up their shipments in less than car load lots, and thus distribute their shipments over many lines and avoid the restriction of the law, or it would very unjustly discriminate against the large shippers and in favor of those who ship less than car load lots.

It is difficult to conceive what could have been the possible object of this provision of the bill. If it be proper and right that there should be no more unjust discrimination, and that the rates for like service performed, should be the same to all persons, then why should this bill not apply to the shipments of one pound of freight as well as to one hundred car loads?

There are other features of the bill which would operate very unjustly, but it will not be necessary to refer to them here.

CONCLUSION.

Enough has been said, I hope, to show that the Reagan bill as it now stands, if enacted into a law, could not be carried into practical operation, because continuous shipment cannot be enforced; but, even if they could be, it would not remove any of the difficulties of the transportation business which it is intended to remove, but would aggravate them all.

45TH CONGRESS, 1
3D SESSION. }

H. R. 3547.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 12, 1878.

Read twice and referred to the Committee on Commerce.

JANUARY 17, 1879.

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AN ACT

TO REGULATE INTER-STATE COMMERCE AND TO PROHIBIT UNJUST
DISCRIMINATIONS BY COMMON CARRIERS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that it shall be unlawful for any person or persons engaged alone or associated with others in the transportation of property by railroad from one State or Territory to or through one or more other States or Territories of the United States, or through or from any foreign country, directly or indirectly to charge to or receive from any person or persons any greater or less rate or amount of freight, compensation, or reward than is charged to or received from any other person or persons for like and contemporaneous service, in the carrying, receiving, delivering, storing, or handling of the same. And all persons engaged as aforesaid shall furnish without discrimination, the same facilities for the carriage, receiving, delivery, storage, and handling of all property of like character carried by him or them, and shall perform with equal expedition the same kind of services connected with the contemporaneous transportation thereof as aforesaid. No break, stoppage, or interruption, nor any contract, agreement, or understanding, shall be made to prevent the carriage of any property from being and being treated as one continuous carriage, in the meaning of this act, from the place of shipment to the place of destination, unless such stoppage, interruption, contract, arrangement, or understanding was made

in good faith for some practical and necessary purpose, without any intent to avoid or interrupt such continuous carriage, or to evade any of the provisions of this act.

SEC. 2. That it shall be unlawful for any person or persons engaged in the transportation of property, as aforesaid, directly or indirectly to allow any rebate, drawback, or other advantage, in any form, upon shipments made or service rendered, as aforesaid, by him or them.

SEC. 3. That it shall be unlawful for any person or persons engaged in the carriage, receiving, storage, or handling of property, as mentioned in the first section of this act, to enter into any combination, contract, or agreement, by changes of schedule, carriage in different cars, breaking car loads into less than car loads, or by any other means, with intent to prevent the carriage of such property from being continuous from the place of shipment to the place of destination, whether carried on one or several railroads. And it shall be unlawful for any person or person carrying property, as aforesaid, to enter into any contract, agreement, or combination, for the pooling of freights, or to pool the freights, of different and competing railroads, by dividing between them the aggregate or net proceeds of the earnings of such railroads, or any portion of them.

SEC. 4. That it shall be unlawful for any person or persons engaged in the transportation of property, as provided in the first section of this act, to charge or receive any greater compensation per car load of similar property for carrying, receiving, storing, forwarding, or handling the same for a shorter than for a longer distance in one continuous carriage.

SEC. 5. That all persons engaged in carrying property, as provided in the first section of this act, shall adopt and keep posted up schedules, which shall plainly state :

First, the different kinds and classes of property to be carried ;

Second, the different places between which such property shall be carried ;

Third, the rates of freight and prices of carriage between

such places, and for all services connected with the receiving, delivery, loading, unloading, storing, or handling the same.

Such schedules may be changed from time to time as hereinafter provided. Copies of such schedules shall be printed in plain, large type, at least the size of ordinary pica, and shall be kept plainly posted for public inspection in at least two places in every depot where freights are received or delivered; and no such schedule shall be changed in any particular except by the substitution of another schedule containing the specifications above required, which substitute schedule shall plainly state the time when it shall go into effect, and copies of which, printed as aforesaid, shall be posted as above provided, at least five days before the same shall go into effect; and the same shall remain in force until another schedule shall, as aforesaid, be substituted. And it shall be unlawful for any person or persons engaged in carrying property on railroads as aforesaid, after thirty days after the passage of this act, to charge or receive more or less compensation for the carriage, receiving, delivery, loading, unloading, handling, or storing of any of the property contemplated by the first section of this act than shall be specified in such schedule as may at the time be in force.

SEC. 6. That each and all of the provisions of this act shall apply to all property, and the receiving, delivery, loading, unloading, handling, storing, or carriage of the same, on one actually or substantially continuous carriage, or as part of such continuous carriage, as provided for in the first section of this act, and the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads, and whether such services are performed or compensation paid or received by or to one person alone, or in connection with another or other persons.

SEC. 7. That each and every act, matter, or thing in this act declared to be unlawful is hereby prohibited; and in case any person or persons, as defined in this act, engaged as aforesaid, shall do, suffer, or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or shall omit to do any act, matter, or thing in this act required to be done, or shall be guilty of any violation of the provisions of this act, such person or per-

sons shall forfeit and pay to the person or persons who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person or persons so damaged by suit in any district or circuit court of the United States, where the person or persons causing such damage can be found, or may have an agent, office, or place of business; and the person or persons so offending shall for each offence forfeit and pay a penalty of not less than one thousand dollars, to be recovered by the United States, by action in any circuit or district court aforesaid, one half of such penalty or penalties, when collected, to be paid to the informer. Any action to be brought as aforesaid to recover any such penalty or damages may be considered, and if so brought shall be regarded as a subject of equity jurisdiction and discovery, and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance, preliminary or final injunctions may, without allegation or proof of damage to any plaintiff or complainant, be granted upon proper application, restraining, forbidding, and prohibiting the commission or continuance of any acts, matters, or things, within the terms or purview of this act, prohibited or forbidden. In any action aforesaid, and upon any application for any injunction above provided for, any director, officer, receiver, or trustee of any corporation or company aforesaid, or any receiver, trustee, or person aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of any of them alone or with any other person or persons, party or parties, may and shall be compelled to attend, appear, and testify and give evidence, and no claim that any such testimony or evidence might or might tend to criminate the person testifying or giving evidence shall be of any avail, but such evidence or testimony shall not be used as against such person on the trial of any indictment against him. The attendance and appearance of any of the persons who as aforesaid may be compelled to appear or testify, and the giving of the testimony or evidence by the same, respectively, and the production of books and papers thereby, may and shall be compelled, the same as in the case of any other witness; and in case any such deposition or evidence, or the production of any books or papers, may be desired or required for the purpose of applying for or sustaining any injunction

aforesaid, the same, and the production of books and papers, may and shall be had, taken, and compelled, by or before any United States commissioner, or in any manner provided or to be provided for, as to the taking of other depositions or evidence, or the attendance of witnesses, or the production of other books or papers, in or by chapter seventeen of title thirteen of the Revised Statutes of the United States. In actions to be brought as aforesaid, damages sustained in the period of a month or part of a month may be regarded as and counted or declared upon, or complained of generally, and as one separate cause of action, and so, whether such damages be sustained in one month or in different months; and such separate causes of action may be joined in the same action. No action aforesaid shall be sustained unless brought within one year after the cause of action shall accrue.

SEC. 8. That any director or officer of any corporation or company acting or engaged as aforesaid, or any receiver or trustee, lessee, or person acting or engaged as aforesaid, or any agent of any such corporation or company, receiver, trustee, or person aforesaid, or of one of them alone, or with any other corporation, company, person, or party, who shall directly or indirectly do, or cause or willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or forbidden, or directly or indirectly aid or abet therein; or shall directly or indirectly omit or fail to do any act, matter or thing in this act required to be done, or cause or willingly suffer or permit any act, matter, or thing so directed or required to be done not to be so done; or shall directly or indirectly aid or abet any such omission or failure; or shall directly or indirectly be guilty of any infraction of this act, or directly or indirectly aid or abet therein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one thousand dollars.

SEC. 9. That nothing in this act shall apply to the carriage, receiving, storage, handling, or forwarding of property less than an ordinary car load, or wholly within one State or Territory, and not destined for carriage in another State or Territory, or going to or coming from some foreign country, or to property carried for the United States at lower rates of freight and charges than for the general public, or to the transportation of articles

free or at reduced rates of freight for charitable purposes, or to or from public fairs and expositions for exhibition.

SEC. 10. That the words "person or persons" as used in this act, except where otherwise provided, shall be construed and held too mean person or persons, officer or officers, corporation or corporations, company or companies, receiver or receivers, trustee or trustees, lessee or lessees, agent or agents, or other person or persons acting or engaged in any of the matters and things mentioned in this act.

Passed the House of Representatives December 11, 1878.

Attest:

GEO. M. ADAMS,
Clerk.



THE
RAILROAD PROBLEM
AND ITS
SOLUTION.

ARGUMENT OF
ALBERT FINK,
BEFORE THE COMMITTEE ON COMMERCE OF THE U. S. HOUSE OF
REPRESENTATIVES, IN OPPOSITION TO THE BILL TO
REGULATE INTERSTATE COMMERCE.

JANUARY 14, 15 & 16, 1880.

NEW YORK :
RUSSELL BROTHERS, PRINTERS, 17, 19, 21, 23 ROSE STREET.
(Law Telephone, 588.)

1882.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE :

It would be impossible to treat in a brief space of time, exhaustively and in a deserving manner, a subject so complicated and of so much importance as that under your consideration, viz.: the enactment of a law "to regulate Interstate Commerce and to prohibit unjust discrimination by common carriers." I do not propose, therefore, to weary you by the consideration of all the details of this subject, which embraces nothing less than the solution of the so-called "Railroad Problem," but shall briefly refer to the general principles involved, and point out the difficulties which are encountered in its practical solution, and show how it can and how it ought to be solved, and prove that the proposed measure is entirely inadequate to accomplish the desired end.

It may be proper here to remark, that the railroad companies are not hostile to the intended object of the bill; on the contrary, they are exceedingly anxious that it may be attained. They are only opposed to the proposed measure, because it does not and cannot reach the evils which it intends to remedy, and because its enactment into a law will complicate, rather than aid in the solution of the railroad problem. The railroad companies are now themselves earnestly engaged in solving this problem without the aid of Congress; and during the past year great progress has been made in that direction, an account of which I propose to give hereafter.

To form an intelligent and just opinion of the effect and merits of the proposed measures, it is first necessary to clearly understand what are the evils to be remedied by this bill.

It will be found that the complaints of the public are directed against the commercial management of the railroads—the charges made for transportation service, or the adjustment of the railroad tariffs. We hear of no public complaint against the technical management of the roads; and it may be said with some pride, that as regards the accommodations and facilities furnished to the American people, the safe and prompt and economical transaction of the passenger and freight traffic, the management of the railroads in this country is superior, or, to say the least, not surpassed in any other country. A passenger may traverse the continent, from the Atlantic to the Pacific Ocean, while almost enjoying the comforts of a home. Freight is being shipped from and to the remotest parts of the continent with great expedition, and without subjecting the shipper to the many annoyances and inconveniences which are experienced in other countries. These results have been secured partly through the consolidation of a number of roads into long lines, or large systems under one control, or through the co-operation of the many yet existing separate railroad companies, by which unity of management, so necessary for the proper transaction of business, has been practically secured.

The solution of the railroad problem in this country is, therefore, confined to the satisfactory settlement of the tariff question, and may be stated in a few words, to consist in the attainment of the following objects:

1. To establish a reasonable and equitable railroad transportation tariff for the whole country.
2. To maintain this tariff with the greatest possible degree of permanency.

I purposely state the problem under these two separate heads, as it will simplify its consideration.

The solution of the first part of the problem involves the consideration of these questions, "What is a reasonable, equitable and justly discriminating railroad tariff?" It is held by some that a tariff, in order to be reasonable, must be made in exact proportion of

the cost of the service performed; but then the question arises, "What is the cost?" and this is a very difficult question to answer. In some instances the cost of transporting one ton of freight one mile may only be one-tenth (1-10) cents, and at the same time, on the same road under different conditions, it may be as much as ten (10) cents or more. To make even an approximate estimate of the cost in any given case is a work of great difficulty and complexity, and strictly to comply with the condition that a railroad tariff, in order to be reasonable, must be based upon actual cost, and must be made in exact proportion to cost, is an impossibility.

It is equally as difficult to answer the question, "What constitutes just and unjust discrimination?" It is conceded that discrimination in transportation charges must be made; but when are such discriminations just and when unjust? In order to ascertain this we may apply this test: A tariff is just when under its operation one shipper is not injured at the expense of another, and when like charges are made for like services. It would, however, be in vain to search for one general principle applicable to all cases that occur in daily practice, according to which we could, *a priori*, decide whether a railroad tariff complies with these conditions or not.

For example, the principle that transportation charges should be made in exact proportion to the distances over which goods are carried, generally known as the *pro rata* principle, is recognized, in the abstract, as correct, and in a great many cases can be and is being acted upon; but it is not of universal application, because it comes in conflict with the principle already mentioned, which is also recognized as a correct one, viz., that a tariff should be based upon the cost of transportation. Now, as the cost of transportation per unit of measure and distance is greater for shorter distances than for longer, also greater for smaller quantities of goods than for larger, the *pro rata* principle must be modified or abandoned, at least to the extent that the cost of transportation may require it. And so in regard to the equality of charges for like service. A railroad company may charge twice as much to one shipper per 100 lbs. as to another for the

same kind of goods shipped from the same point to the same destination, and yet this in itself is not proof of unjust discrimination, as the quantity shipped by one may be comparatively small as compared with that shipped by the other; and the actual cost of carrying the smaller quantity may be twice as much per 100 lbs. as to carry the larger quantity. It is, therefore, necessary to take the cost of the service into consideration to determine what constitutes like service; and here, again, we meet the difficulty of determining what is the actual cost in each case.

But in a great many cases the *pro rata* principle, or the principle that tariffs should be made in exact proportion to the cost of service, must give way to other and more important considerations. The value of the articles to be transported, and their prices in the different markets in which such articles are to be exchanged, determine most frequently the transportation charges, regardless of the cost to the carrier or distance to which the articles are to be carried. So long as there is any profit at all to a railroad company in moving certain articles of commerce, no matter how small that profit may be—either to meet competition of markets or of other transportation lines—railroad companies should not be obliged to refuse to carry such low-priced freight, because they cannot afford to do the whole of their business at so small a profit. They must be allowed to make greater charges on articles which can bear higher rates of transportation, and disregard the principle that charges should be in exact proportion to cost. They must either do this or the articles which do not stand the higher charges of transportation cannot be moved at all, and the profit which could have been derived from their carriage would most likely be replaced by a further increase in the charges on those articles which can stand higher rates. In all the business transactions of a common carrier, as well as in all other commercial transactions, the laws of trade and commerce, of demand and supply, ought to be allowed to have their full influence; and hence they must have a most important bearing upon the construction of railroad tariffs.

If these laws were disregarded, it would soon be discovered

that railroads could not be operated at all, or that their usefulness to the public and to their owners would be immensely curtailed. Now, as railroads were not built for the mere purpose of carrying out abstract principles, but for the purpose of making them subservient to the wants of the people, for the purpose of facilitating trade and commerce and of developing the resources of the country, it follows that the great commercial principles—those that give existence and life to the roads—become paramount, and that the “pro rata principle” or the “cost principle” can be applied, if at all, only in so far as they do not come in conflict with the recognized laws of trade and commerce.

From these considerations, it will appear that transportation tariffs cannot be established by simple arithmetical or mathematical rules; they require the application of quite a number of principles, all correct in themselves, and this to a great variety of ever changing facts. This is necessarily the work of experts, and not the work of legislative departments of a government. All attempts to lay down specific rules for the regulation of tariffs have heretofore failed. Nothing else could be expected, considering the nature of the case; and, as some of the provisions of the bill under consideration are only repetitions of former attempts, they must either meet with the same fate, or, if enforced, must result to the injury of public interests.

Mr. Blanchard, in his argument made before the committee, yesterday, has ably discussed a great many of the practical questions that have to be considered in making railroad tariffs, and no doubt convinced you of the intricacy of this subject.

Upon a more careful consideration, I am sure your committee will be led to the conclusion that, in order to protect the people against extortion or unjust discrimination of common carriers, you cannot devise or formulate a more precise and definite law than the common law, which embodies the experience and wisdom of past ages, and which, I am convinced, cannot be improved.

It guarantees to the people reasonable and just rates of

transportation, and necessarily leaves to the courts to decide what constitutes reasonable and just transportation charges. These are questions that can only be decided after a full consideration of all the facts controlling each case. It may be possible to pass an act by which the enforcement of the common law can be facilitated, and this, I understand, is one of the objects of this bill; and in some cases, especially as far as the local traffic of railroads is concerned, I have no doubt that some abuses may be corrected by a stricter enforcement of this law; but as far as the interstate traffic is concerned, with which alone you have to do, and under interstate traffic may be comprehended the competitive traffic of the railroad companies—even the strictest enforcement of the common law, if such were practicable and just, which it will be shown it is not, would and could not accomplish the object of your bill, viz. : to prevent unjust discriminations.

Owing to the commercial nature of the transportation business, the laws of trade and commerce, which should govern the management of that business, come, under certain circumstances, in direct conflict with the duties of the common carriers as public servants. The spirit embodied in the common law can only be put into practical execution by restricting or regulating, to a certain degree, the operation of the commercial laws—the law of competition, as applied to the business of the common carriers themselves. It cannot be expected that a number of public servants, when engaged in competitive struggles with each other—in other words, when engaged in a free fight—could perform their public duty as common carriers, and guarantee equal and just rates of transportation to all shippers.

Such guarantee can only be given when these public servants are made to act in concert in all matters relating to their public duty—the establishment and maintenance of reasonable and just transportation tariffs. But if the public prefers that the laws of competition should remain in full force as between these public servants, it must dispense with the enforcement of the law regulating common carriers, and be satisfied with enduring the evils which result from the

violation of this law, viz. : unjust discrimination, and constant fluctuations in the transportation charges.

The correctness of this statement will be proven when we come to consider the true causes of the evils which you seek to remove. Upon close investigation it will be found these evils do not arise from defective tariffs. Notwithstanding the difficulties encountered, the railroad companies have succeeded in establishing tariffs, by agreement between themselves, covering the whole of the interstate traffic, which are considered satisfactory by the public, or are as nearly so as it may be possible to make them. Perfection must not be looked for in this, any more than in other complicated transactions in which human agencies play a part, nor must it be expected that the difference of opinion which naturally exists as to the value of an article between those who have it for sale and those who wish to purchase it, could be removed by legislation—congressional or other. This difference will exist as long as there are sellers and buyers. The pressure of the public and the general clamor for lower rates of transportation, must not be looked upon as positive proof that something is wrong, and should not lead your committee to the conclusion that something must be done by Congress to satisfy the demands. This is a subject capable of investigation and positive proof; and I venture to assert, that if your committee would undertake to make a critical examination of the existing transportation tariffs as established by the railroad companies, and made known to the public; or if your committee would cause such examination to be made, it would be fully demonstrated that the published tariffs for the interstate commerce are, upon the whole, satisfactory to the public, or ought to satisfy all reasonable demands.

The difficulties which you propose to remedy do not arise from the fact that there are not properly and well considered and satisfactory tariffs of transportation for the interstate traffic of the country, but from the fact that these tariffs are, in most cases, utterly useless, because they are not carried into practical execution. They are often disregarded almost as soon as they are made. Each company may change or abolish them at pleasure; and from this state of affairs result

all the evils of the transportation business which you seek to remedy—the general confusion in transportation rates, unequal charges to shippers at the same locality, unjustly discriminating rates between different localities, uncertainty and constant fluctuations in the transportation rates. If you, therefore, desire to remove these evils, it becomes necessary to consider, first, the causes which prevent adherence to the proper and just tariffs; and the question has to be answered, Why are the proper tariffs not enforced?

Simply because there is no authority in this country—no power to enforce them. Each railroad company is at liberty and permitted to deviate from the established tariff whenever it pleases, although it may have voluntarily given its consent to it, and agreed to maintain it; yet any one of the companies may, and frequently does enter into secret arrangements with shippers, and reduces the rates, in the hope of procuring a larger amount of business than it otherwise could obtain, or of securing some other advantage over its competitors. No sooner is it discovered that one company engages in this practice, than the others must and do follow. No sooner has the tariff in any one city been disturbed, than the tariff in other places must necessarily also be disregarded. Owing to the mutual dependence of tariffs one upon the other—a feature of the transportation business to which I shall more particularly refer hereafter—a change at one important point must be followed by a general readjustment throughout the whole country, or through a large section of the country.

Under the process of underbidding, heretofore so generally practiced by competing railroad companies, a practice which is always encouraged by the shippers, and is generally called competition—although not a correct name—no just and equitable tariff can be maintained. I say competition is not a correct name, because legitimate competition can always be carried on openly and above board; the process here described, when competitors are under an agreement to maintain the same tariff, is simply a process of cheating and deceiving, and ought not to be dignified by the name of competition.

To show that under this process of underbidding no just

and equitable tariff can be maintained, examine the complaints which may have been made to any member of this committee—the complaints which have been brought to light in the various investigations—and I refer particularly to the investigations lately made by the Committee of the Legislature of the State of New York, and you will find that they all can be traced, directly or indirectly, to the cause which I have just assigned, namely, the strife between the railroad and other transportation companies to secure business for themselves and to take it away from their competitors.

Take, for example, the frequent complaints made by local shippers, who have to pay higher rates of transportation than shippers over longer distances from points of competition. Rates from Chicago, Cincinnati and other great trade centres in the West, to New York, Philadelphia and Baltimore, have been made as low as ten or fifteen cents per hundred pounds over a distance of a thousand miles, while local shippers, situated only fifty or one hundred miles from New York, Philadelphia or Baltimore, may have to pay as much or more.

There is no justification for such great discrimination, except that it is not in the power of any one company to avoid it. It arises from the fact that the agreed and proper tariffs, at points where a number of railroads can perform the same service, and compete with each other by underbidding, are and cannot be maintained, the rates being reduced unreasonably low, often below the actual cost of transportation, while from local points they are maintained upon the properly established basis.

The rates at local points are under the control of a single railroad company, while at competitive points they are not controlled or controllable by any one company. The proper and established tariff can only be maintained by the railroad companies acting collectively, as one party.

In the absence of this necessary co-operation between all the companies which are in a position to influence, change, or altogether annul such tariffs, the abandonment of the best regulated tariffs is unavoidable, and without their strict maintenance, chaos and unjust discrimination must reign supreme.

With a knowledge of these facts, you can now test the merits of the bill under your consideration, and ascertain whether, if it becomes a law, it will have the effect of preventing unjust discrimination. I propose to show that it will not accomplish this result. And why not? Because the proposed remedies do not strike at the root of the evil.

The bill is only operative upon each individual railroad company. It says to each company, you must not discriminate unjustly between your patrons; your charges must be the same for like service performed. This is well enough, as far as it goes, but it does not go far enough. It simply reiterates and attempts to enforce the law that is already in existence, and under the operation of which, any shipper that has suffered from unreasonable and unjustly discriminating tariffs, can find redress. If the mere enforcement of the common law were sufficient to prevent unjust discrimination, why has it not been enforced, and why has not unjust discrimination been prevented? The fact is, the strictest enforcement of the common law, or of the Reagan Bill, should it become the law, cannot prevent unjust discrimination. Each railroad company for itself, may strictly obey these laws and carry out faithfully all their provisions, and, yet the worst sort of unjust discrimination may and will still exist.

To illustrate and prove the truth of this statement:

Suppose that the Baltimore & Ohio Railroad Co. charges to a shipper A, 40 cents per hundred pounds on grain from Chicago to New York, and the same rate to all its patrons for contemporaneous and like service. It will have strictly complied with the Reagan Bill. Suppose, also, that the Pennsylvania Railroad charges on the same day 25 cents to another shipper B, from Chicago to New York, and the same to all its patrons for like and contemporaneous service. Both companies will have strictly complied with the Reagan Bill, and yet the shipper A, who may be a next door neighbor of B, and compete with him in the same article of trade, pays 15 cents more per 100 pounds than B. The effect of the independent action of these two companies is precisely the same as if one and the same company had made this unjust discrimination.

It certainly can make no difference how unjust discrimination is produced, or by whom it is practiced, as long as it exists.

To prevent this sort of unjust discrimination, it is necessary that the two roads in the case I have mentioned for illustration, and also the other Chicago roads and their connections which can carry this freight to New York, should agree together upon a like charge to be made for contemporaneous and like services to all shippers at Chicago. These several roads should co-operate first in agreeing upon a joint tariff, and then strictly adhere to it. It is only in this way, and in no other, that the shippers in Chicago, or in any one locality where a number of roads compete for the same traffic, can be put upon the same footing, and that the spirit and intention of the common law and the Reagan Bill can be practically enforced.

To illustrate this subject still further, suppose the rate from Chicago to New York on grain per hundred pounds is to-day 40 cents, while from St. Louis, upon a strict mileage basis, the rate is 45 cents. These are the rates actually observed to-day; they are reasonable and just, and do not discriminate between Chicago and St. Louis, and therefore ought to be, and are satisfactory to all parties. But suppose the New York Central Company charges in Chicago 25 cents to-day, while the St. Louis roads charge 45 cents in St. Louis. The St. Louis shipper would at once complain against this unjust discrimination; but the Reagan Bill would afford him no relief and grant him no protection.

In order to secure to the St. Louis people a properly discriminating tariff—a tariff that will enable them to compete on equal terms with Chicago—there must be an understanding or an agreement, there must be co-operation between the several lines centring in Chicago with the lines centring in St. Louis in determining the just and proper difference in the tariff from the two cities to the same point of shipment, as justified and made necessary by their relative location from the markets and by other commercial considerations; and after the relative tariff is established upon the correct and satisfactory basis, there must be joint and co-operative action in maintaining the same.

Each of the terminal roads in Chicago has a number of connecting roads which reach to the seaboard. Counting the various and distinct combinations of connecting roads with the main roads, there are upward of twenty distinct organizations, working over some 50 different routes to the East, each having separate interests, soliciting business on its own account, and at liberty to make such tariffs as it pleases. A similar state of affairs exists at St. Louis, from which place freight is shipped over 107 different routes to the seaboard, controlled by more than twenty different organizations, so that there must be an agreement between upward of forty different interests, all of which must be satisfied as regards the tariff and the amount of business each receives under it, in order to secure the intended object of the Reagan Bill : to prevent unjust discrimination. I have only mentioned Chicago and St. Louis ; but you must now also consider that the rates made from these cities influence and control the rates from almost every section of the country, from Indianapolis, Louisville, Cincinnati, Toledo, Detroit, in fact, from the lakes down to the Gulf of Mexico, and from the Atlantic to the Pacific Ocean ; and further consider, that the co-operation of all the roads interested in the carrying business of this large country is required to regulate and maintain just and proper tariffs ; and you may be able to form some idea of the complications and difficulties of the problem, to satisfy the demands of the people for indiscriminating railroad transportation tariffs.

Under these conditions, is it to be wondered, then, that there has been complaint of unjust discrimination ? Is it to be wondered that there has been the greatest confusion, demoralization and chaos in the transportation tariffs of the country ? The wonder is, considering the number of independent railroads, each at perfect liberty to make whatever tariff it pleases, each company having different interests at variance with the other, each striving to secure for itself by fair or unfair means all the business it can grasp, each managed by men of different skill, capacity, and of peculiar characteristics ; and also, considering that the closest co-operation of all these various and conflicting elements is absolutely

necessary to reach the grand result—the establishment and maintenance of a uniform, just and equitable railroad tariff, for 85,000 miles of railroads, in a country dotted all over with lakes and intersected with a great number of navigable streams and canals—additional elements of complication—the wonder is, Mr. Chairman, that the men who have managed this complicated business for you heretofore, have done it so well, and have confined, within such narrow limits, the evils and mischief which necessarily must follow the rapid and unprecedented growth of this new system of transportation, which has worked so great a change in the development and commerce of this country, one unprecedented in the history of the world.

Allow me, Mr. Chairman, to say, that the abuse which is heaped upon railway companies and managers, because they do not at once control that which, in the very nature of things, is uncontrollable by their single efforts, appears to me unjust and undeserved.

If I felt sure that I had succeeded in explaining to you the magnitude and complexity of the problem that you are attempting to solve by this proposed law, and the real causes of the evil which grew up necessarily with the multiplicity of competing railroads, it would not be necessary for me to again refer to the defects of this measure, and repeat the assertion that it utterly fails to cope with the difficulties of the situation.

You will find that no provision is made in this bill looking to co-operation between railroad companies, as a necessary condition toward the attainment of its object. It not only does not authorize such co-operation, but strange to say, it actually forbids all combinations between railroads, by which they have heretofore been enabled to maintain, at least, some degree of system and order in the conduct of the transportation business. Moreover, this bill is to do away with the good that has already been accomplished, and to send us back into the chaos from which we are just now emerging. It professes to undertake the prevention of unjust discrimination, and yet it says to the railroad companies, you are forbidden by authority of law to take the proper and necessary steps to obviate and remove this unjust discrimination.

All legislation for the last forty years, on the subject of railroad tariffs, has been futile, because legislators have failed to comprehend and to recognize the true nature of the subject with which they attempted to deal. They have directed their laws against the suppression of the outward symptoms of the disease instead of its cause. The true cause of the evils to be remedied lies in the separate action of a great number of independent competing roads, no one of which, by its single efforts, can remove the evils. Any legislation, to be effective and successful, must deal with the system of railroads as a whole ; in other words, it must look to the combination of all the roads, so as to make them, in effect, act as one road, so far as their duty as public servants requires them to maintain just and equitable rates of transportation, and prevent unjust discrimination.

The real question before your committee, if you desire to solve the railroad problem, is, How shall this unity of action be secured ?

Before I present my own views regarding the method by which the railroad problem may be solved in this country, and the legislation necessary for that purpose, I will briefly refer to the actual or attempted solution of the problem in other countries.

In France, we find that the difficulties which you propose to remedy have never existed, at least not to any great extent, for the reason that the causes do not exist. There is not the multiplicity of competing railroad lines which are in a position to render like service to the people. The country has practically been divided among a few systems of railroads which are not interfering with each other, and the tariff of each can therefore be made, in a measure, independent of the other, and is not subject to be disturbed by the diversity of interests of competing roads. Moreover, the government exercises direct control over these tariffs ; and when they are once established, it sees that they are strictly observed. It must be remembered, that the government is practically in partnership with the railroad companies, having guaranteed a fixed interest on the capital investment, and, therefore, the right to exercise such control over railroad tariffs cannot be

questioned. And it must not be overlooked, that competition between railroad companies is necessarily eliminated by government control.

In Belgium, the experiment has been tried of controlling the private railroad companies by the railroads owned by the State. These two systems have been in active competition, and even the State railroads have been obliged to resort to the usual means of carrying on that competition not always in consonance with the laws that should govern common carriers. The final result of the Belgian experiment is, that the government of Belgium is now about to purchase the last important private railroad in that State, and thus control, virtually, the whole railroad system of the country; in which case it will secure that co-operation and unity of management which I have pointed out as necessary to prevent unjust discrimination. Competition between separate companies ceases with State ownership.

In England, the condition of the railroad management resembles more that of this country. The railroads are not under the direct control of the government. Competitive struggles have had the same result in England as here—dissatisfaction of the public, and ruin to the railroads, and finally consolidation of the roads into a few large systems, by which the tariff question has become more manageable. In addition to this, the government has aided the English railroad companies greatly in securing unity of management, by chartering an institution called the “Clearing House,” through which the railroad companies transact all their business, establish their tariffs, and have the means in their hands of maintaining the same, thus practically uniting the management of the separate roads into one, and preventing strife between railroad companies; so that Mr. Pease, Member of Parliament, could say, before a committee, in 1872, “I do not think that at this moment there is a competitive rate existing in the kingdom.”

In Germany the railroad system and its management resembles that of this country, in so far as the railroad companies are the creatures of the several States. The consequent want of unity of management has, therefore, been felt in that

country to a greater degree than elsewhere in Europe, and perhaps as much so or more than in this country. After the most thorough consideration which the ablest minds of Germany have for years given to the solution of the railroad problem, the conclusion has been reached that the necessary unity of management can only be properly and rightfully secured through the complete ownership of the railroads by the government. In pursuance of that policy the government of Prussia has already purchased all the important roads of that State. This also eliminates the competition between separate companies from the railroad problem.

It would be rather unfortunate for this country if this plan of State ownership was the only one under which the proper management of the railroads could be accomplished. It may be remarked, however, that the idea that the federal government should take complete control of the railroads has often found expression in this country. A few years ago the lower house of Congress passed a bill, according to which the President of the United States should appoint nine persons authorized to establish the railroad tariffs of the country, even without first acquiring proprietary rights to do so. The impracticability and injustice of such a measure requires no comment.

The various and varied experience of other countries in the solution of this modern transportation problem proves the fact, beyond a doubt, that the competing common carriers of the railroads of a country cannot fulfil their duties as public servants without unity and concentration of management—a fact which I have endeavored to demonstrate, from a consideration of the dual character of the transportation business—its commercial and public nature.

The question before this committee, if it desires to deal effectively with the railroad problem, is, therefore : How shall this unity of management be attained in this country, consistent with the public interests, and in accordance with the peculiar institutions and the practical working of this government? That it cannot be obtained through governmental ownership of the railroads is a self evident proposition.

Before considering this question further, it may be of interest

to your committee to know the work that has already been accomplished without the aid of government, by the railroad companies themselves, toward the solution of the railroad problem.

The railroad companies have endeavored to secure unity of action by voluntary co-operation in all matters in which it is absolutely necessary for the proper management of the roads, in the interest of the public, as well as in the interests of the proprietors of the roads. But this co-operation has been most inefficient in all matters relating to the uniformity, equality and permanency of railroad tariffs, although in other respects, as already mentioned, it has been very successful.

It is on account of the great complexity of the tariff problem that this voluntary co-operation has not met with better success, and not for want of effort or desire on the part of the railroad companies to control it, although the public, ignorant of all the difficulties to be overcome, presume to hold each separate road responsible for the working of the whole system. The difficulty, however, has not been so much in agreeing upon the proper tariffs, but in carrying them into practical effect. The necessary means and machinery for that purpose have not been adopted, and there is no authority to enforce such agreements.

The managers of roads meet in convention, and make agreements which are broken before they disperse. Every one who has paid the least attention to this subject is familiar with these unsuccessful efforts. The press of the country chronicles almost daily some conference held by officers of railroad companies, or some agreement made, and on the following day it chronicles its violation or discontinuance.

During the last few years, however, some progress has been made toward a closer and more effective co-operation. Associations of railroad companies have been formed, with a proper organization, through which it was made at least possible to control the important tariff question. The first complete organization of this kind, and to which I shall refer hereafter more particularly, and explain fully its object and its methods, was the Southern Railway and Steamship

Association, formed in October, 1875, and which is still in effective operation.

In 1877 the four Trunk Lines—the New York Central, Erie, Pennsylvania, and Baltimore and Ohio Railroads—entered into a similar compact, by which all the Westbound traffic from the seaboard was managed under one organization. In April, 1878, the Grand Trunk and Vermont Central companies commenced to co-operate with the four other Trunk roads. Through this compact it has been practicable to control the tariffs on the whole of the Westbound traffic from the seaboard to all points West of the termini of the Trunk Lines. Like charges have been made to the public for like service. The tariff has been permanently maintained for a period of two and a half years with only one change during that time—something that has never been accomplished before; thus securing practically to the people the object of the proposed measure now being considered by your committee, viz. : reasonable, just and permanent rates of transportation. I do not mean to say that perfection has been reached in this respect, because much remains to be done; but cases of violation of the tariff rates, as far as the Trunk Lines can exercise their influence, are now the exception, and not, as heretofore, the rule.

Similar efforts at closer and more effective co-operation have been made by the railroads west of Chicago and St. Louis, which have been in a great measure successful.

During the last year the principal roads embraced in the territory east of the Mississippi and the Atlantic seaboard, including the Trunk roads, and the Grand Trunk, have formed an organization known under the name of the Joint Executive Committee, for the purpose of securing uniform and equitable rates on the whole of their Eastbound traffic. This organization is of the same character as that of the Southern Railway and Steamship Association, the operation of which will be more fully explained hereafter. Acting as chairman of that committee, I beg leave to read an extract of the report which I was able to make at its first annual meeting in Chicago, in December last.

“It may not be out of place here to refer briefly to the past

operations of this committee, which has now been established one year this day, although its organization was not fully perfected and put into working order until June last. Since then the committee has accomplished, in a great measure, the object for which it was created, namely, to establish reasonable and just tariffs for the competitive traffic, and to permanently maintain such tariffs, securing thereby reasonable compensation to the companies and remedying the great evils that have resulted from want of co-operation between the railroad companies, to the serious injury of their own and the interests of the public."

"You have now for the first time established a practical method by which the competitive traffic of your roads can be properly managed and controlled. Heretofore this was impossible; the mere holding of conventions of railroad managers, passing resolutions, and then dispersing and letting things take care of themselves, each party acting as it sees fit, will not accomplish the purpose of intelligent joint management of the large property under your charge. You have now added to the legislative department—your conventions—also a permanent executive department, the duty of which is to see that the resolutions passed and agreements made are faithfully carried out. In addition to this you have also established a judiciary department, consisting of a board of arbitration, whose duty it is to settle peaceably any question of difference, without resort to wasteful warfare, with all its injurious consequences. You have thus formed a complete government over this large competitive traffic over which it has heretofore been found impracticable to exercise intelligent control."

"It must be remarked, however, that the only bond which holds this government together is the intelligence and good faith of the parties composing it. To give greater stability and permanency to the operations of this committee, it would be desirable to make its operations legally binding upon all parties by legislative action, provided it can be shown, as I believe it can, that its operation is beneficial to the public interests. I consider that no other legislative action would be necessary to remedy the evils which it has been attempted

unsuccessfully to remedy by State legislation, and which may be attempted by congressional legislation, I fear, with like results."

"The companies composing this association have already, by their voluntary action, abolished the pernicious system of special contracts, and all shippers are now put upon an equal footing. Rates for the last few months have been everywhere (in the territory in which these roads are located) maintained, and the great disparity between the local rates and the competitive through rates, which has heretofore been so great a source of trouble and complaint, has ceased to exist. Had such a result been sooner reached, we would have heard nothing of legislative control of railroads."

"I express it as my opinion, the result of the most careful consideration, that the only legislation required to accomplish the object which the most zealous advocate of the public interests can desire to accomplish, is to legalize, and even to enforce, the co-operative system of the railroad companies, so far as it is necessary to establish and maintain reasonable rates of transportation upon a uniform and equitable basis, treating alike all parties situated alike—in other words, to carry out the plan adopted by the committee, and which has been so successfully practiced during the last few months. I know that objection will be made by parties not conversant with all the conditions of limitation and restriction which are enforced upon railroad companies in establishing their tariffs, that such co-operation or combination, as it is generally called to make it appear odious, would lead to extortion on the part of the combined railroad companies. The past action of this committee is the best proof that such fears are unfounded. The committee, during its existence, has established rates lower than they have ever existed before, and even the highest rates charged have not exceeded those of the last few years, but have been considerably lower, although the conditions for high rates have been more favorable this year than they have been for years past."

"The only thing which the co-operative system has accomplished, is the maintenance of the established tariffs and the abolishment of the contract and rebate system. It is

only when agreed rates are maintained, no matter by what means, either by the voluntary action of the railroads or by direct legislative enforcement, that the evils of the transportation business complained of by the public can be remedied."

"If, therefore, our work is to be judged by its fruit, it should recommend itself to public favor."

From this, it will appear that, in my judgment, the only measure now wanted in order to give permanency to the operations of these associations, is to recognize the same as necessary and beneficial, to give legal force to the voluntary agreements that may be made between its members, with the view of carrying out the objects of the association, namely, the establishment and maintenance of reasonable and non-discriminating transportation tariffs; in fact, the object of your proposed legislation. If Congress would pass a law to this effect, I would consider the whole railroad problem in this country settled, and settled upon truly American principles. It would allow the proprietors of the railroads to manage their own affairs, which they are much better able to do than it could be done under a centralized government, and at the same time it would restrict the operation of each individual road under the legalized co-operative system, to the extent that it is necessary, in order to carry out the intent and spirit of the law which regulates the conduct of common carriers in their capacity as public servants.

I regret that I have not sufficient time to point out at length the great merits and advantages of this American plan of governing the railroads, as compared with the European plans, to which I have referred. It accomplishes fully the object contemplated by the centralized government of the railroads in Germany. It brings unity in the management of the roads, as far as that is desirable or necessary; and at the same time, it preserves the individuality of each road, and reserves to it the management of all its local affairs, in which it and the country through which it passes is alone concerned. Co-operation of the roads is only required in so far as the interest of the whole system of roads and the public interest requires it—no further. In this respect, the gov-

ernment of the railroads would be based on the same principle that underlies the government of the United States—the general government taking cognizance only of matters in which the several States are jointly interested, leaving to each individual State—and, in this case, each road—to manage its own local affairs as it thinks best, in accordance with the laws of the State which created it.

Is it necessary to point out the great advantage of such a government as compared with that of a centralized government? Considering the extent of this country and the extent of its railroad system, a government of the railroads, such as is contemplated in Germany, would be utterly impracticable here. Government ownership accomplishes only one purpose—the same as the co-operative plan, it secures unity of management—in other respects the difficulties of the tariff question arise and would have to be dealt with, whether the roads are the property of the State or of private individuals; and State ownership would necessarily bring with it many new difficulties not experienced or even thought of under the management by private owners.

The plan which I propose prevents that very centralization and absorption of the roads under the absolute control of one or few persons. It makes the separate, individual existence of these roads possible, and puts a check upon the consolidation of roads, which is regarded with so much alarm by the people in this country, but which is the natural result of the struggles of the railroad companies: the stronger must at last absorb the weaker. The proposed government of the road secures all the advantages of consolidation, without its disadvantages. Instead of conferring upon and concentrating great power in the hands of a few, it has the contrary effect—it will leave that power distributed among a great many separate corporations.

It is, of course, not proposed that the separate railroads shall be compelled to co-operate with each other if they do not desire to do so, for it is presumed that self interest will induce them to adopt the co-operative plan; nor is it asked that the government should sanction the plan of co-operation without adopting such measures as may be thought necessary

to properly supervise the operations of these associations, and to prevent all abuses of the privileges that may be conferred upon the roads. Such supervision may be accomplished by a commission specially appointed for that purpose, upon a plan similar to that which has been established in Great Britain.

One of the great difficulties of the railroad problem in this country arises from the fact that the general government cannot extend its jurisdiction to State roads, nor to the roads in foreign countries. Legislation, to be effective, must necessarily embrace all the competing roads in this country, including the foreign competing roads, as well as the competing water lines.

The tariffs of all competing carriers affect each other to such a degree, that if you restrict the action of one, and do not put the same restrictions upon all the others, you would not only do an act of gross injustice, but you could not accomplish the purpose at all for which you undertake to legislate. Instead of preventing unjust discrimination, you would legalize and increase it.

The competing carriers, by railroad or water, in foreign countries, in one State or in several States, all must be permitted either to enter the field of competition on a like footing, or they must be restricted alike. If the bill under consideration would be otherwise unobjectionable, the fact that it does not reach State roads, such as the New York Central, while it applies to the Erie, a road competing for the same business, although located in different States, would not only prevent all the objects of the bill from being realized, but it would, in addition, have the tendency to destroy the value of the roads which are under restriction, and give undue advantages to the roads or the waterways to which the law does not apply.

The same holds good in regard to the Canadian roads, which are allowed, under the Reagan bill, to continue all the abuses which the bill is intended to prevent, while it restricts the American roads in competing upon a footing of equality with their foreign rivals. And the same is the case with the

rival transportation routes, by canal, lake or river. They may continue to act as heretofore, pay rebates, make unjust discriminations at pleasure, and take the business away from the competing railroads, while the usual means of defence are taken out of the hands of the latter.

As the State governments cannot extend their jurisdiction beyond the boundaries of the States, and as the general government cannot extend its jurisdiction over the State roads nor to the foreign roads, it is clear that, under our present constitution, and with the present geographical boundaries of the country, neither the Federal government nor the State government, nor even through their concurrent action, could justly and effectively legislate upon the subject of railroad tariffs, without interfering with the free laws of competition, and doing great injustice to American interests, in favor of foreign roads, or to the interests of the railroads which are so unfortunate as to pass through more than one State, and in favor of the roads located only in one State, or to the interests of all the railroads in the country, and in favor of the water transportation lines, which latter are not to come under the restrictions of this bill.

All these difficulties are overcome by the adoption of the co-operative plan, under which the roads—foreign and State roads included—by their voluntary action, undertake to carry out the intention and spirit of the common law, as regards the duties of common carriers in their capacity as public servants, induced to do so by consideration of their own and of public interests. State lines, and even national boundary lines, are thereby at once overcome and obliterated, as has been partially demonstrated by the experience of the association known as the Joint Executive Committee during last year, which organization has practically carried out the object of the Reagan Bill in the only way in which it can possibly be done.

All that is required is to guarantee the permanency of this plan, which is now subject to be broken or discontinued at will by the disaffection of one or the other parties, and to recognize it as a legal method of railroad management. It is not proposed to use any compulsory means, other than to

require the adherence of the members of the association to an agreement voluntarily made by them, in the same way and for the same reasons that other legal contracts, between private individuals or corporations, are enforced by authority of law.

I am aware that objections will be raised to the proposed plan, on the ground that it will restrict competition. It will, of course, be impossible to adopt any remedy that would do away with unjust discriminations and fluctuating rates, without restricting at the same time, to a certain degree, the strife—but not the competition—between railroad companies. It is just as impossible that the unrestricted strife between railroads, improperly called competition, could be continued, and at the same time equitable, permanent and indiscriminating rates of railroad transportation could be secured to the public, as it would be impossible to mingle fire and water into a homogeneous mass. The existence of one excludes the existence of the other. It is either strife between these common carriers—or public servants—and all its attendant evils, such as unjust discriminations and fluctuating rates, or it is co-operation and unity of action in all matters relating to the competitive tariffs resulting in permanent, just and equitable rates. The people will have to choose between the two. Each of these plans has its advantages and disadvantages. In this, as in all other human affairs, perfection is not possible, and the question simply is, which is the lesser of the two evils?

It cannot be denied that the past strife between the railroads has been productive of some good. Notwithstanding the great evils which have also been developed by it, it has no doubt aided in furnishing the people of this country with unequalled transportation facilities, and this at lower cost than the same facilities can be obtained in any other country. But the question may now be asked, whether, in this respect, these battles between railroad companies have not done all the good they can do, and whether the disadvantages arising therefrom have not become greater than their advantages. I am myself convinced that the latter is the case, and I am supported in this conclusion by public sentiment. People

do not call now for lower rates of transportation, because transportation charges have become as low as can reasonably be expected, but they ask for equitable, uniform and permanent rates.

Nor would I recommend the plan of these co-operative associations of railroad companies, and ask the sanction of the government for them, if thereby the real and legitimate competition between the associated roads would be prevented. The object of the association is simply to regulate intelligently, the competition between these roads and prevent its excesses, which result necessarily only in waste of property and in unjustly discriminating rates of transportation.

By guaranteeing the separate existence of a great number of competing roads, and preventing their consolidation under a single management, the spirit of competition is necessarily kept alive, but it is not to be exercised hereafter, by paying rebates to shippers, and by trying to take underhanded advantage of each other, but by endeavoring to improve and increase the facilities of transportation, and thereby retain or increase the claims of each road upon public patronage. Neither is it intended, nor would it be possible to restrict by means of the proposed organized action of the railroad companies, the legitimate forces of competition in the open markets of the world, or of the powerful and controlling waterways. These forces remain unimpaired, and will continue to exert their full influence upon the railroad transportation traffic of the country to such a degree, that it will be utterly impossible for railroad companies to practice extortion, and thus afford a much stronger guarantee to the public than any possible legislative device could do.

Although believing that the only action Congress could take to accomplish the object of the bill under your consideration, is to legalize the co-operative plan, yet I would not wish to ask Congress to pass any law at this time that would even have the appearance of restricting competition. I know that the people and Congress are not yet sufficiently well informed upon this subject to enact any law that will effectually reach the evils that it seeks to cure. It would require the

whole time of the committee for months to enable it to legislate intelligently upon this subject. The appointment of a commission to investigate this question thoroughly, and to collect all the facts bearing upon it, and to report to the next session of Congress, would seem to be the first step to be taken to secure intelligent legislation. I submit, whether in the present state of the railroad problem, it would not be better to let the railroads endeavor to work out this problem in their own way, for the present, at least, and, in the meantime, to watch their operation, and collect information through a commission. All we now ask is, that our efforts should not be obstructed by inefficient legislation, such as is contemplated by this bill.

Great progress has been already made in solving the railroad problem without the aid of Congress. The agitation of the question by the public has had the beneficial effect of directing the attention of the railroad managers more earnestly toward its solution, and much good has been done in this direction. The question does not now stand where it stood when it was first brought before Congress. Results have already been reached in its settlement which, two years ago, were considered impossible to attain, by the mere voluntary association of the railroad companies; and there is now some hope that the evils of the transportation business may be remedied in this country, even without the aid of Congress. But if legislation shall be required, it can only be successful when the laws are framed in accordance with the principles which I have endeavored to explain, and the correctness of which have already been practically demonstrated—principles which are not only not embodied in the Reagan Bill, but are directly violated by it, as they have been by all former legislation on railroad tariff questions.

(At this point Mr. Fink gave way to Mr. Chauncey M. Depew, counsellor and representative of the New York Central Railroad, who occupied the time of the committee until its adjournment.)

Continuation of argument of Albert Fink, in session of committee, January 15, 1880 :

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE :

In continuance of my argument of yesterday, I propose now to call your special attention to-day to a peculiar and very important feature of the transportation business, which is little understood by the public, and has been utterly ignored by legislators in dealing with the railroad problem. You cannot devise any proper legislation for the regulation of tariffs and the prevention of unjust discrimination, without thoroughly understanding this feature. I refer to the interdependence of competitive tariffs, of common carriers by water or rail, throughout the whole country.

It would be a comparatively easy matter to establish proper transportation tariffs, if each separate carrier could make its own without regard to others—a condition of things which is generally supposed by the public to exist. The fact, however, is that only upon a very small portion of its traffic can a railroad company control its tariffs. It can only control the tariff upon traffic which cannot be carried by any other rail or water route ; and even upon this, competitive tariffs have great influence. This interdependence of transportation tariffs makes the tariff question one of great complication and far reaching consequences. You cannot change or alter the tariff on any one of the competing roads without affecting thereby the tariffs of all others throughout a large section of the country, or throughout the whole country. Competing railroad tariffs must, therefore, be considered and treated as a whole, for the whole country. You cannot change one part of the structure without destroying the equilibrium of the whole, and without making a thorough readjustment or reconstruction necessary, which requires the co-operation of all the roads whose action can affect or influence such tariffs.

While this independence requires unity of action and co-operation, or combination, as it is generally called, of the common carriers, in order to establish and maintain permanently, justly discriminating, uniform and equitable transportation rates for the whole country, it also assures the

people, at the same time, against the abuse of the so called power of combination—the exacting of extortionate transportation charges—because it is through this peculiar feature—the interdependence of tariffs—that the railroad tariffs of this country are controlled completely by the tariffs established by the competing carriers on the cheaper water routes, to whom nature supplies the roadways free of charge, and for whom the government keeps them in repair at the expense of the people.

The competitive railroad tariffs for the interstate commerce are not, as is so generally supposed, under the absolute control of railroad managers; but the carriers by the water routes really establish these tariffs, and the railroad managers have nothing to do but to conform to them. The water routes not only control the tariffs of their immediate rail competitors, at points where they can render like service to the same people, but their influence reaches, directly and indirectly, to the remotest parts of the country. Compared with this natural powerful regulator of railroad transportation tariffs, the efforts of State or congressional legislation to prevent extortionate charges appear to those who are fully conversant with the subject as perfectly useless; and the declamations against the baneful effect of the so called railroad combinations appear simply as idle talk. This is shown by the fact that many of the charters of railroad companies fix the maximum charge at from six to eight cents per ton per mile, the water competition reduces the earnings of roads frequently to one quarter cent per ton per mile; and the maximum charge on grain from Chicago to New York will hardly ever again exceed $\frac{8}{10}$ cents per ton per mile, or but one tenth of the maximum rates allowed by charters.

To explain the effect of water competition more fully, I have to enter somewhat more into details, which I would like, for your sake, not to be required to do; but if this important feature of railroad operation—the interdependence of tariffs—is not understood, you will continue to grope in the dark, looking for remedies for the existing evils, without being able to find any.

Commencing at the most northern boundary of the United

States, the carriers on the lakes and the Erie Canal limit the railroad tariffs between Chicago and New York. The railroads can only charge so much more than the water lines as may be justified by the superior service rendered by them.

After the rates from Chicago to New York have thus been determined, the rates from Chicago to Boston, and to Philadelphia and Baltimore, are established by an agreement between the interested railroad companies. Fixed differences, which are considered justified by the geographical position of these several cities and other considerations, are permanently maintained in the rates from Chicago to other seaboard cities. At present the rates from Chicago to Boston, and interior New England cities, are five cents per hundred pounds higher than from Chicago to New York; and from Chicago to Philadelphia, two cents; from Chicago to Baltimore three cents lower per hundred pounds, than from Chicago to New York. This relative adjustment of rates may be varied from time to time, by mutual consent of the interested railroad companies, each of which takes care of the commercial interest of the cities with which its own interests are identified, and does the best for itself and these cities that may be possible to do under the given conditions. Whether the present agreed differences mentioned above are satisfactory to the several railroad companies, or to the interested communities, is not now a question for consideration. It is sufficient to call your attention to the fact, that this vexatious and difficult problem of satisfying at once all the rival commercial and railroad interests of the seaboard cities has been settled in this way, after millions of dollars' worth of property have been wasted, and after the commercial relations of the whole country, as far as affected by railroad tariffs, have been disturbed and kept in a turmoil for years, in the endeavor to come to some understanding upon this question.

These differences being now agreed upon, when it becomes necessary to meet the cheap, competitive rates of the canal and lake carriers between Chicago and New York, the rates to Boston and interior New England points, to Philadelphia and Baltimore, are determined by adding or deducting the

agreed difference to the reduced rates. Thus, the cities having no direct water communication with Chicago enjoy the benefit of the canal, as far as low railroad transportation rates are concerned, the same as if the canal ran to those cities.

Another very important rule of action has been adopted by the railroad companies, located in the territory east of the Mississippi River, north of the Ohio and the northern Atlantic seaboard, by which the influence of the low rates on the Erie Canal and the lakes is felt in determining the rail rates from all other points in this large section of the country.

When the rates of transportation between New York and Chicago have been regulated by the competition of the water routes, all the tariffs in this section of country are adjusted upon the basis of the relative distance of the various points from New York, using the distance from Chicago to New York as the basis. The agreed differences are again allowed from the same places to Boston, New York, Philadelphia and Baltimore. In this case, the popular pro rata principle can be, and is, permanently adopted in establishing the tariffs. The distance of St. Louis, for example, from New York, is 16 per cent. greater than the distance from Chicago to New York, and the rate from St. Louis to New York is 16 per cent. higher. Can anything be fairer? The low rates established on the Erie Canal and Lakes are thus extended to St. Louis, and that city enjoys the full benefit of cheap railroad transportation, the same as Chicago.

Nor is this a mere arbitrary arrangement of the railroad companies, which could be discontinued at their pleasure. It is based upon the surest foundation—the interests of the railroad companies themselves centring in St. Louis. As long as they are in a position to exert any influence upon the transportation rates, they will be sure to take care of the interests of St. Louis. It don't require any congressional or other legislation to protect St. Louis as against Chicago. Were the rates from St. Louis to the East made too high, as compared with the rates from Chicago, or were the Chicago rates lowered to meet the competition of the water routes, while the St. Louis rates were not lowered in the same pro-

portion, the business would be diverted to Chicago, to the injury of the St. Louis railroads, and of the St. Louis merchants.

The same reasoning holds good in regard to the rates from all other cities in the territory named—from Cairo, Peoria, Indianapolis, Evansville, Terre Haute, Vincennes, Lafayette, Louisville, Cincinnati, Columbus, Cleveland, Toledo, Detroit, Pittsburg, Buffalo, Wheeling. The transportation rates to and from these cities are regulated by the Erie Canal. But the influence of the lakes and Erie Canal does not stop there. The tariffs west of the Mississippi River are based upon the rates east of Chicago and St. Louis, and the tariffs south of the Ohio are based upon the rates prevailing north of the Ohio, and therefore it may be truly stated that the most northern line of water transportation influences the rates of railroad transportation almost throughout the whole country.

But the lakes and Erie Canal are not the only regulators of railroad transportation tariffs. The Mississippi River and the coastwise ocean navigation play another important part. Should the railroad companies desire to take advantage of the suspension of navigation on the Erie Canal and lakes during the winter season, if otherwise the transportation rates were not limited by commercial considerations, the Mississippi River would furnish an outlet from St. Louis, *via* New Orleans, to New York or direct to Europe. The rates from St. Louis, *via* rail to New York, would then have to be so adjusted as to meet this water competition, and from all other interior points east of St. Louis they would have to be adjusted upon the *pro rata* principle, for the same reasons already fully explained.

I have shown how the rates from St. Louis, and the whole section of the country depending upon St. Louis, are affected by the Erie Canal and the lakes, on the one hand, and the ocean and Mississippi River, on the other hand. There are still other lines competing for the St. Louis East and West bound traffic, by which the St. Louis rates are affected. One of these is the line from St. Louis, *via* the Mississippi River to Cairo, from Cairo up the Ohio River to Huntington, W. Va., from thence to Richmond by the Chesapeake & Ohio

Railroad (the only railroad link in the route, 421 miles long), and from Richmond, *via* James River and ocean, to New York and other Northern ports.

Another route is from St. Louis, either by rail or water, to Columbus, Ky., or to Evansville; thence to Nashville, Chattanooga, Knoxville and Norfolk; from Norfolk by ocean to New York; or from St. Louis, *via* the same routes, as far as Chattanooga; then *via* Atlanta, Augusta and Port Royal, to New York; or from Atlanta to Savannah, or *via* any of the other South Atlantic ports, to the North Atlantic ports. All these Southern routes, competing with the Northern routes, contain the cheap elements of water transportation, and each of these lines can affect and influence the establishment of the tariffs, not only from St. Louis, but from the whole territory depending upon St. Louis. While thus the Erie Canal and the lakes influence the rail rates of transportation from the extreme Northern boundary of the country toward the South, the ocean and Mississippi River navigation influence the rail rates from the South toward the North.

I have already referred to the coast line steamers from New York to New Orleans, and *via* Mississippi River to St. Louis, as forming one of the competing water lines between St. Louis and New York. By this same route freight is also shipped to Memphis, and the rate to Memphis from the East, *via* the Northern all rail routes, through Louisville, has to conform to these low water rates. Although Memphis is nearly four hundred miles southwest of Louisville, the rates to Memphis from New York are as low on a great many articles, *via* the coast line steamers and the Mississippi River boats, as the all rail rate from New York to Louisville, which latter rate is based upon the Chicago rate, and is determined by the Erie Canal and the lakes. The Memphis rates having been determined by the Southern water routes, the rates to Nashville have to be adjusted upon the basis of the Memphis rate. Nashville must have a lower rate than Memphis, otherwise the Nashville merchant could not compete with the Memphis merchants, and the railroads interested in Nashville would lose their business.

As an illustration of the interdependence of railroad

tariffs, it appears from the above, that the rate from New York to Nashville is controlled by the following competing lines :

1. The Erie Canal and lakes influence the rates to Louisville, and through Louisville the Nashville rate.

2. The ocean and Mississippi River determine the rate to Memphis, and through Memphis the Nashville rate.

3. The routes from New York, *via* ocean to Norfolk, Charleston and Savannah, and from there *via* rail to Memphis and Nashville, influence the rates to these points.

It appears, therefore, that the rates from New York to Nashville, one of the interior cities, are controlled and influenced by the most northern and most southerly water routes, and can be influenced by the action of almost every single competing railroad in the country, south and north and east of the Mississippi River.

The same may be said in regard to the rates to Atlanta, a city removed from any water course.

The Erie Canal and lakes determine the rates from Chicago to Atlanta, *via* New York, Philadelphia or Baltimore, and thence *via* Charleston or other South Atlantic ports, by short rail routes to Atlanta. The all rail rates from St. Louis and Chicago, *via* Louisville or Cincinnati and Chattanooga, to Atlanta, have to conform to the rates determined by the Erie Canal from Chicago to New York, and by the water routes from New York to Charleston, Savannah, New Orleans or Mobile.

The rate from Chicago to Charleston and Savannah being thus determined, the rate from Chicago to Atlanta is also fixed, as it cannot be more than the water rates to Charleston or Savannah, plus the rail rate over a short rail route from these ports to Atlanta. The rate from Chicago to Atlanta being determined by the Erie Canal and ocean navigation, the rate from Louisville to Atlanta must be made less than from Chicago to Atlanta, as the railroads interested in Louisville are compelled by self interest to demand lower rates, on account of the shorter distance from there to Atlanta. The rates from Louisville to Atlanta being thus determined, it also fixes the rates from Nashville to

Atlanta ; because the railroads at Nashville claim lower rates on account of their shorter distance to Atlanta. Thus it will be seen that the Erie Canal influences, directly or indirectly, the rates between Nashville and Atlanta—two inferior cities, far removed from the water routes, which exercise this control.

Illustrations to the same effect might be multiplied ad infinitum, but I do not propose to weary you with unnecessary repetition. I hope enough has been said to prove the interdependence of railroad tariffs throughout the whole country, the complete control that the water routes exercise over the railroad transportation tariffs, even to the remotest parts of the country, the impossibility of railroad companies making unreasonable and extortionate charges on interstate or competitive traffic ; and I also hope that no further argument will be required to convince your committee that this interdependence of railroad tariffs of a great number of independent railroad companies, who can directly or indirectly influence, change, or abolish all tariffs, requires the co-operation and unity of action of all, in order to establish and maintain uniform, and indiscriminating railroad tariffs.

How this unity of action is to be secured is, therefore, the first and most important question to be considered in the practical solution of the railroad problem.

I do not like to bore your committee with the practical details of railroad management, but I do not see how I can avoid referring, at least in a general manner, to the great difficulties that railroad managers encounter in the administration of this transportation business, and I cannot do better than to read an article, which I wrote some four years ago, and which is published in the report of the Chief of the Bureau of Statistics for 1876, Part II., in answer to a question propounded by Mr. Nimmo.

In this article I gave an account of the state of the railroad problem and railroad administration four years ago, and, after reading it, I will explain the plans that were then proposed for the remedy of the described evils, and which have since been put in practical and successful execution to a very considerable extent.

The question was asked:

State the principle upon which competitive rates should be established by transportation lines, the principal method by which they are established, the means employed to maintain the same, the reason why they are so frequently broken; also state the cause of railroad wars and their effect upon the public interests.

Answer.—"I have referred to the mutual dependence of railroad companies upon each other regarding the establishment of competitive tariffs."

"The right of each company to regulate and change its own tariffs without regard to the interest of another road, cannot be denied; but this right is not only possessed by one, but by all. Let us suppose that in its exercise one road changes its tariff to-day and another to-morrow, another the next day, and so on—the action of one affecting the interests of all the others—the injurious effects of this separate and independent action would be felt by all."

"It becomes, therefore, a matter of mutual interest, almost an absolute necessity, in order to adjust properly the railroad tariffs of the country, that the various lines of transportation competing for the same traffic, or whose tariffs are influenced by each other, should act in concert."

"They should give each other timely notice of the changes proposed to be made, so that all may be able to conform thereto. This is the correct theory upon which competing transportation lines should and generally propose to act. This co-operation is not in conflict with the laws of the country or with public interest, as is generally supposed. On the contrary, it is beneficial to both the public and railroad interest."

"The work of establishing the competitive tariffs of railroad companies, and of transacting other business in which they are mutually interested, is usually performed in meetings or conventions of the representatives of the interested companies."

"The conventions are called from time to time, as the necessity for changes or readjustment of tariffs may arise."

"The difficulties of bringing together from all parts of the country, at one time and at one point, the representatives of a great number of transportation companies are not a few. These officers are generally fully occupied at home, or they may have previous engagements. The officer competent to represent a certain road may sometimes be required (if the business relations of his company are complicated) at two or three different conventions at the same time, or so near together that he cannot attend at all. It may and does frequently happen that the representative of a road whose presence was absolutely necessary to transact any business at all does not appear. When this is the case, the convention adjourns and agrees upon some other place and time of meeting, perhaps with no better result."

"It often happens that officers of transportation lines are chasing each other over the country, endeavoring to meet and transact important business, but practically accomplishing nothing. After many repeated trials, the conviction settles itself upon the minds of many that it is useless to repeat these abortive attempts, and that time and expenses involved might as well be saved."

"The important questions, upon the settlement of which the proper conduct of the transportation business depends, are not attended to, and matters are allowed to take care of themselves."

"But in case the interested parties come at last together, a day or two only generally is set aside to transact business that is often of a very complicated nature, arising from the direct conflict of so many interests. For want of more time the work is often imperfectly done, if done at all. In case of disagreement, there is no one to decide between the parties. The majority cannot and ought not to dictate to the minority. The result in many cases is, that the questions at issue remain unsettled and no agreement can be made. But assuming that an agreement is at last consummated, the most difficult part of the work remains yet to be done. How is the agreement to be carried into effect?"

“There is no authority to compel adherence to it, no court in which the violator of it can be held responsible or punished.”

“The agreements hastily formed are often understood differently by the different parties and executed in the various ways which they are understood.”

“There is no central office from which the proper interpretations could be enforced alike. One party may consider that the other is violating the agreement and absolve itself from adherence. The result is the same as if no agreement had been made.”

“Supposing, however, that an agreement relative to the establishment of competitive rates is made and understood alike by all parties, should it then appear to one or the other party, after a short experience, that it does not receive as much business as it expected or wanted (and such conclusions are generally arrived at), it either openly repudiates the agreement or more frequently violates it secretly by paying commissions or rebates, or by the use of other means of deception.”

“The other parties very soon suspect that they are not fairly dealt with. This mere suspicion is often considered sufficient for adopting means of self protection, generally corresponding in character with those the other party employed, or is supposed to have employed.”

“The result is that, either openly, more often secretly, by means which are considered dishonorable in the ordinary transaction of life, one competitor is underbidding the other. The rates of transportation fluctuate; they become lower and lower; influential shippers are secretly favored by low rates, enabling them to secure advantages over their competitors and to monopolize certain branches of business altogether. All this is done in direct violation of the laws that should govern common carriers.”

“The shippers cunningly encourage dissension among the agents of competing lines, ingeniously working upon their credulity and suspicion by hints or direct misrepresentations, and hardly ever fail to obtain a reduction in the established rates of transportation which had been agreed upon and were

considered reasonable and proper by all the competing transportation lines."

"After a period of low rates caused by this process of underbidding, during which the railroad companies usually work for less than cost, it is found necessary by them to make another effort to secure remunerative rates, and, if possible, by higher rates to make up for past losses."

"New conventions are called and held, new agreements formed, and they are violated again as before, and so on. This history of the management of the transportation business is thus constantly repeating itself, to the great injury of the people and the proprietors of the roads."

"The general managers or heads of the departments attend generally to the establishment of rates and make agreements with each other; and to this extent, but no further, this important business may be said to be under their control; but no sooner is it believed that one or the other competing lines has violated the agreement and tries to deceive, whether this be a fact or not, the management is of necessity surrendered into the hands of subordinates, the soliciting or commission agents, to whom the general instructions are given to do as others are doing, or supposed to be doing, or to make any rate they please, no matter how low. From that time on the general managers and the owners of railroad property have lost control over it."

"The result is fluctuations in rates, unjust discrimination between shippers in the same locality, or between shippers in different localities."

"Rebates are generally paid and special contracts are secretly made, all in direct violation of the law that should govern common carriers."

"There are other causes which lead to the same result."

"If a controversy arises between any two or more railroad companies upon any subject whatsoever, and they cannot arrive at a satisfactory adjustment, one or the other party commences a system of warfare upon its opponent by establishing unusually low rates of transportation over its own line, and thus compels the other to conform to the same in the hope of inflicting losses upon it, to a greater extent, perhaps,

than the amount of money involved in the controversy. Or this warfare may be undertaken as a preliminary step to negotiations, or for the purpose of establishing again the fact, of which each party is already well aware, that it cannot ignore the existence or the rights of the other."

That this mode of settling controversies between intelligent people is yet practiced in this civilized age, can only be accounted for by the fact that the property which is thus being unnecessarily sacrificed, is not the property of the parties who manage it.

"If it were, it is reasonable to assume that ere this means would have been devised by which controversies between railroad companies would be settled in a manner less wasteful and more in accordance with the spirit of the present civilization. In the absence of such means, the practice now so frequently resorted to is, however, unavoidable."

"Were the injurious consequences of these wars confined only to the combatants, it would be less objectionable, but innocent parties become involved. Railroad companies which are not concerned in the controversy, are necessarily drawn into it, and often sustain great losses, and the people generally suffer from these contests. This, however, is not generally understood, on account of the immediate temporary advantages which are gained by some parties by the low rates; the subsequent and permanent disadvantages under which all, more or less, suffer, are not considered."

"A proper distinction should be drawn between healthy competition, regulated by natural laws upon correct principles, and competition which is merely the result of mismanagement."

"Healthy competition is continuous in its operation. The effect of railroad wars, or railroad mismanagement, in reducing rates is spasmodic. The natural laws of competition do not regulate changes in the tariffs. They depend often upon the mere will of a single railroad manager, or may result from an obstinate and unreasonable quarrel between a number of them. Personal pride and prejudices not unfrequently have something to do with it. The people, cannot, therefore, foresee and provide against changes which affect so seriously

their commercial relations and interests. The market value of articles of commerce becomes unsettled, the risks of all commercial transactions (depending upon transportation charges) are greatly increased, the proper adjustment of tariffs between commercial communities is disturbed, and trade diverted from its accustomed channels. The transportation taxes are borne unequally by different localities, giving undue advantages to some, and unjustly discriminating against others."

"Low competitive rates make higher local rates necessary. Unreasonably low rates are used as a standard of comparison, by which the higher rates, although they may be reasonable in themselves, appear extortionate."

"Rates of transportation should be reasonable ; they should be uniform and permanent, as nearly as the conditions of cost and the natural laws of competition permit ; they should be alike to all parties situated alike, and should be properly adjusted, so as not to discriminate unjustly between different individuals or communities."

"To attain these objects under the present management of the competitive transportation business is simply impossible."

"Intelligent co-operation between all the transportation lines which can influence the tariff, under a proper organization and regulations, becomes absolutely necessary."

"Whether this co-operation can be secured by the voluntary action of the transportation companies, is doubtful. Governmental supervision and authority may be required to some extent to accomplish the end in view.

To overcome the difficulties and remedy the evils just described, an association was formed of about twenty-five Southern roads, in October, 1875, with the object of securing the necessary co-operation. I will not detain you with reading the articles of association, but the following explanation of the same, written by me in April, 1876, sets forth the methods adopted and the reason therefor. The plan here described is substantially the same as that adopted by the Joint Executive Committee, previously referred to.

DESCRIPTION OF THE ORGANIZATION OF THE SOUTHERN
RAILWAY AND STEAMSHIP ASSOCIATION.

"In articles 1 to 3 of the Constitution, the object of the association is stated. It will be seen that the members agree merely upon a specific mode or system in which they propose to transact that portion of their business in which they may be concerned together, and in the proper conduct of which, negotiations and co-operation become necessary."

"Articles 4 to 13 provide for the manner in which the regulations and rules for the conduct of the business are to be established, or changed from time to time as occasion may require; also for the appointment of an officer who is to be called the commissioner, and whose duties are prescribed in articles 14 to 27."

"These duties are of a threefold nature:"

"1st. The commissioner is the head of a bureau through which the members transact all their business of the character named above."

"This bureau becomes the central office of the members. Instead of each company attempting to transact directly its business with every other—almost an impossible undertaking, when many companies are concerned (there are 25 members of the association)—they correspond directly with this central office and carry on their intercourse and negotiations through it. This avoids to a great degree the necessity of transacting business through conventions—an expensive, time consuming, and at best a very unsatisfactory mode, especially as these conventions can only be held periodically, while business can be transacted with great promptness through the bureau at all times."

"In this respect, even without any further measures, the establishment of a bureau, by transportation companies having intimate business relations, would be a great improvement in facilitating their intercourse, and lead to a more intelligent and satisfactory management of their business."

"The information collected by the bureau, upon all subjects that can bear upon the negotiations and subjects of co-operation, enables the commissioner to take a more general view

of the whole field of operations, and to form a more intelligent, impartial and correct judgment of the course which it would be best for each company to pursue, with due regards to the rights of others. Acting as an adviser and mediator between the members, many complications, which in intricate and complicated business transactions (especially between parties living apart) arise from a want of a proper understanding, can thus be avoided."

"2d. If the necessary agreements cannot be reached in the manner proposed, the commissioner is to decide as an umpire all questions of conflict between the members, and thus avoid the expensive warfare now generally resorted to in such cases."

"His decisions are subject to be revised by a court of appeal or board of arbitration."

"3d. It is the duty of the general commissioner to see that all the agreements which have been made, or his decision, or the decisions of the court of appeal, are carried out."

"Agreements between railroad companies are generally made in conventions of the officers. For want of time, they are hardly ever thoroughly considered, and are generally understood differently by different parties, and executed as they are understood; hence they are generally broken as soon as made. The impossibility of carrying out agreements between railroad companies is not always the result of bad faith or dishonesty on the part of the contracting parties, but is frequently due to the want of a proper organization and the failure to employ proper means to accomplish the end in view. It should not be expected that an agreement made between a great many parties in regard to complicated business transactions can be carried out without some executive head, whose duty it is to see that each party adheres to it, or to fix the responsibility in case of violation."

"It is with a view to correct this defect in the present mode of transacting business between railroad companies, that the Commissioner is made the executive officer, charged with the duty and empowered to enforce the agreement made between the members of the association."

"While this does not prevent intentional violation, yet it

removes many of the causes which lead to disagreement and disruption. In the course of time it may be expected that by these means confidence between the members will be established, the want of which in each other is really one of the greatest causes of dissension and trouble."

"The three specific duties of the Commissioner which I have just named, are to be performed by an officer of experience, accustomed to deal with all questions arising in the practical management of the transportation business. This officer should at least be the equal in intelligence and capacity to the chief managing officers of the railroad companies, members of the association."

"It will be observed, from a careful reading of the articles of the association, that the association, as a body, does not prescribe any particular policy or line of conduct regarding the management of the business of the members, but merely determines the mode, rules and regulations, according to which the members are to transact business with each other. The particular measures to be adopted upon any subject of action are to be determined by the interested parties themselves in each particular case as it may arise. The majority of the association, however, does not dictate terms to the minority regarding questions of management or the conduct of business. In case of disagreement and conflict between the members, the question at issue is not to be decided by a majority of the contracting parties, but is to be submitted to the decision of a disinterested umpire, or to a board of arbitrators."

"The full legislative and directing power—if I may use these terms—remains, therefore, in the parties at interest. This power is only restricted in case of conflict; but this restriction is imposed by judicial proceedings, and not by the numerical strength of the contending parties."

"It will appear from this that the association is formed upon the plan of a representative government, with a legislative, judicial and executive department. The legislative department is constituted by the members of the association. As long as they can agree with each other, the Commissioner exercises only his advisory and executive powers. In case of

disagreement between the members, his duties become of a judicial character. He does not control, prescribe or direct, but merely advises, adjudicates and executes."

"Uniting these offices in one person, he can act promptly in all matters that come before him, without interruption in the regular course of conducting business."

"In the absence of any one of the members, he is empowered to act for it, upon all subjects upon which his decision as umpire would be binding on said member."

"The delays frequently occurring, on account of the impossibility of bringing all the interested parties together for the purpose of negotiating agreements, are thus avoided."

"I have called attention to the above essential features of this organization in which it differs from other organizations formerly proposed, and which had a similar object in view."

"Their failure was, no doubt, due to the fact that the business of the members was to be arbitrarily directed by a majority of the members, or by commissioners who were not in a position to understand or guard the rights and interests of all and every member. It could, of course, not be expected that railroad companies would submit to the dictation of others who might have no direct interest in their affairs, or whose interests might be adverse."

"In the organization which I have described, full control is given to each member over its own affairs; only in case of conflict with others it submits voluntarily to the adjudication of a court of justice, in the election of which it participates."

"There is another important feature of the organization to which I will call attention."

"I have referred to the fact that the organization as a body does not prescribe any particular course of action in regard to the conduct of the business of the members. Disagreements, therefore, between the members in regard to any particular transaction or disobedience to the rulings of the arbitrators do not affect, in any way, the organization itself, but merely that particular transaction, and the parties that may be directly or indirectly interested in it."

"Nor does the withdrawal of any one or more of the members dissolve the association. As long as two members re-

main they can continue to transact their business with each other under the rules of the association, and derive some advantage therefrom."

"The plan of organization is not restricted to any particular number of members; from two upward it may embrace all the railroads in the United States. The association contains, therefore, the elements of self preservation and growth. It can adapt itself to the conditions and circumstances which are likely to occur, and under which it has to operate."

"If agreements are not adhered to by the members, or submission to arbitration is refused, the usual mode of settling difficulties between railroad companies has to be resorted to. The members of the association, acting as a unit under its rules, may be able to prevent warfare, or at least restrict it within narrower limits. Organized resistance or offence must be more successful than if each member acted upon his own account and fought indiscriminately foes and friends, as is now generally the case. The strength of the association consists, therefore, in the power and facility to combine all members who desire to carry out their agreements against those who do not."

"It will appear from these explanations that the mere establishment of the association cannot be expected to remove at once all the evils and defects in the present management of railroads which it is intended to overcome."

"Its object is merely to prescribe a method in which the complicated business between railroad companies can be systematically and efficiently transacted, and to substitute intelligent consideration of all subjects of mutual interest, and fair and just adjudication of all conflicting claims, in place of the ruder method of settling controversies between the railroads by warfare, so destructive to the best interest of the people and of the proprietors of the roads."

"The operation of the association must, therefore, not be considered automatic, but its success depends in a great measure still upon the degree of intelligence of the managers of the roads, and more especially upon their good faith to each other, because their compliance with the rules of the

association and with the agreements made under it, is entirely voluntary and cannot be legally enforced."

"To secure the permanency of such associations, it would be desirable to constitute the members a legal body by act of incorporation, making the articles of association legally binding upon its members. This is the plan pursued in the organization under which the business of single railroad companies is conducted."

"If the stockholders of such companies were allowed to exercise a direct control upon the management, each in his own private interest, the result would be disastrous to the best interests of the companies. The stockholders, therefore, elect representatives, whose acts, in accordance with the articles of association, become legally binding upon each. These representatives, it may be said, act as umpire between the individual owners; they look to the interest of the whole as a whole and disregard the interest of the individual when in conflict with the general interest."

"This is the only mode in which the business of a great many parties having separate private interests, but all united for the attainment of the one common object, can be managed."

"The same principle should be applied to the management or government of the whole railroad system of the country. The several railroads constituting this system have interests adverse to each other, yet they have one object in common, and this is the proper management of the transportation business of the country, so as to secure the best possible results to the people, with due regard to the rights of the proprietors of these roads."

"This object can only be attained by the co-operation of the railroad companies under some sort of government, with sufficient power to regulate and restrain the action of individual companies so far as necessary for the welfare of the whole and the attainment of the final object."

"As an important step toward the establishment of such a government, I propose that the federal government legalize (incorporate) organizations formed by the railroad companies upon the plan which I have described and for the purpose mentioned (of course, under proper restrictions), and to make

the action of the judicial and executive officers of the organization legally binding upon its members."

"Railroad companies would soon find it to their interest to form themselves into such associations and transact their business with each other upon more correct principles than is now the case."

"When a number of such associations are formed, they could be united again under a central organization, and thus a complete representative government of the whole railroad system of the country could be established, by which the intelligent management of this great property in the interest of the people, as well as the interest of its proprietors, may finally be secured."

"A representative government or self government established under the authority of the United States over the railroad system, upon the theory and general plan here proposed, seems to me the proper solution of the railroad problem in this country."

"Direct governmental control, without governmental ownership, such as has been attempted in some of the Western States, or as was proposed by the House of Representatives in its last session, does not remove, but rather increases all the difficulties and evils of the transportation business which it sought to remove, and is, moreover, a direct violation of the property rights of the owners of the road."

"The ownership of all the railroads of the country by the government is the only just plan by which the government could exercise a direct and complete control over this property."

"This plan, however, which is now to be put into execution in the German Empire, is not adapted to the institutions of this country. Even if it were, it possesses many disadvantages as compared with a representative and self government."

"The representative government gives full liberty of action in the management of the affairs of each separate road, as far as not in conflict with the general interest, and hence more regard can be paid to the development of local interests."

"Under a representative government each separate company can exercise its full influence upon the management of

the whole system. The great variety of interests, frequently in conflict with each other, being able to exert themselves in their full power in this government, would make combinations looking toward monopoly or extortion impossible."

"The principles of competition would still remain in force, but this competition would be regulated intelligently and in accordance with natural laws. Under a representative government the property rights of the owners of the roads are fully respected; the federal government does not assume to control the property itself (as was contemplated by the appointment of nine commissioners, who were to determine what compensation the railroad companies should receive), but it merely prescribes regulations and the method in which the owners of the property shall control it in a legal manner, without interfering with the just right of others."

"This is a proper function of the government, which it not only may, but should exercise."

"Under the representative government all of the advantages of a consolidated management may thus be secured and its disadvantages avoided."

This is an explanation of the theory and of the general plan upon which the present management of the tariff question, over a large section of the country, is being successfully conducted, and, I think, satisfactorily to the community. It is the only practicable and possible plan by which the railroad problem can be solved in this country, and, to make it permanently successful, it requires but the sanction and the support of the United States Government, under such restrictions and conditions as may be thought necessary in order to protect fully the public interests involved.

It is the only plan by which the object of your bill to secure indiscriminating and permanent rates of transportation can be secured. Although differing in some essential features from the Clearing House plan, chartered by the government in England, practically the same results are attained by it. To show that the British government did not hesitate to assist the railroads in conducting their business so as to secure unity

of management, I will read the Act of the British Parliament, passed June 25, 1850, which authorized the combinations of a number of the railroads for the purpose of conducting their business as one road.

CLEARING ACT.

AN ACT for regulating legal proceedings by or against the Committee of Railway Companies, associated under the Railway Clearing System, and for other purposes, 13 and 14 Vic., cap. xxxiii., 25th June, 1850.

Whereas, For some time past arrangements have subsisted between several railway companies for the transmission, without interruption, of the through traffic in passengers, animals, minerals and goods, passing over different lines of railway for the purpose of affording, in respect to such passengers, animals, minerals and goods, the same or the like facilities, as if such lines had belonged to one company, which arrangements are commonly known as, and in this act are designated as, "The Clearing System," and which arrangements are conducted under the superintendence of a committee appointed by the Boards of Directors of such several railway companies, which committee is in this act designated, "The Committee," * . * * *

And whereas, The Clearing System has been productive of great convenience to the public, and of a considerable saving of expense in the transmission of passengers, animals, minerals and goods over the lines of the several railway companies, parties to such association; but considerable difficulty has been experienced in carrying into effect the objects of the association, in consequence of the Committee not possessing the power of prosecuting or defending actions or suits, or taking other legal proceedings: *And whereas*, * *

May it therefore please Your Majesty that it may be enacted, and be it enacted by the Queen's Most Excellent Majesty, by and with advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament, as-

sembled, and by the authority of the same ; that the several companies which at the time of the passing of this Act are parties to the clearing system, and every other company which shall in manner hereinafter mentioned, become party to the same, shall be subject to the provisions of this act.

I wish to call particular attention to the parts which are printed in spaced words.

A similar act, almost in the same words as applied to the organization of the Joint Executive Committee or the Southern Railway and Steamship Association, would fully cover all the legislative action required by Congress to aid in the solution of the railroad problem in this country.

Having now explained the difficulties of the transportation business, and shown the manner in which they may and should be overcome, I would be glad if the gentlemen of this committee would ask me questions, so that I could see whether I have made myself understood, and if not, could give further explanations.

Mr. O'NEIL—Do I understand you that complaints from the people reach this committee?

Mr. FINK—Yes, sir ; the people can appear before this committee and make their complaints or requests, and this is one of the good features of this organization. If a shipper has a complaint, or desires changes in rates and classification, he communicates with me. I bring the matter before the committee, and if there is any real ground for complaint, the evil is rectified. I can show you from our published proceedings, that we have had parties from Boston, New York, Cleveland, Toledo, and other points, come before us and state their complaints. We listen to them ; consider the complaints carefully, and remedy them if we can. Heretofore it has been utterly impossible, almost, for any person making a complaint to secure a remedy, because there was no concerted action ; there was no responsible party to whom to apply for redress.

Mr. O'NEIL—I did not know but this commission was simply organized to prevent trouble and disputes between the roads themselves, but from what you now say, I understand that the individual shipper can reach the committee.

Mr. FINK—Yes, sir; that is one of its functions, and an important one.

Mr. O'NEIL—Is that fact generally known to shippers?

Mr. FINK—Yes, sir; I think it is. We have letters almost every day from persons who want to have changes made in rates or classification.

Mr. O'NEIL—How do they take the decision of the commission?

Mr. FINK—Some of them have their requests complied with, and they are satisfied; others do not, and they are, of course not satisfied, though they certainly must be satisfied of one thing—that we give their complaints the fullest and fairest consideration.

Mr. O'NEIL—Do I understand you that any complaint of any magnitude from any individual would reach the commission?

Mr. FINK—Most certainly.

Mr. WAIT—Is that the commission on which Mr. Wells and Mr. Adams are?

Mr. FINK—Messrs. Wells and Adams are members of the Board of Arbitration.

Mr. WAIT—They are not a part of this commission, of which you are a member?

Mr. FINK—They are a part of the organization. My title is "Commissioner." I have just read an explanation of the duties of the office of Commissioner or Chairman. The Board of Arbitration is the judicial department of this organization, the duties of which I have also explained.

The CHAIRMAN—Who constitute the Board of Arbitration?

Mr. FINK—Mr. Charles Francis Adams, Jr., Mr. D. A. Wells and Mr. J. A. Wright.

The CHAIRMAN—Do I understand you that by a voluntary arrangement between the officers representing different railroads, you form a body which you call a legislative body?

Mr. FINK—We do not exactly call it so, but it is so in fact. The body is called the "Executive Committee;" each railroad company has a representative upon said committee, and they determine all questions in which they are jointly interested, and which must be determined in some proper way in order

to secure the proper management of the railroads represented on the committee.

The CHAIRMAN—And you have provided a Board of Arbitration, which you call a judicial department?

Mr. FINK—Yes, sir : in my explanation to you it is called the Board of Arbitration.

The CHAIRMAN—And then a Commissioner, who acts as executive?

Mr. FINK—Yes, sir ; that is the organization.

The CHAIRMAN—And you propose, as the best remedy for the evils now existing, against the oppressions to which the people are subjected by the railroads, to establish this “pooling” system, to prevent the inequalities which grow out of a reduction of rates by one railroad and not not by another, and to give it the sanction of the law?

Mr. FINK—I have not said a word about “pooling;” that is merely a means of maintaining rates. This organization could and would exist just the same without any “pooling.” I propose to explain the pooling question more fully hereafter.

The CHAIRMAN—Would not that pooling question come before your legislative body? Would it not be brought in by the people who come before the committee with their complaints?

Mr. FINK—This association simply provides a method in which the joint business of the various roads is to be transacted, and by which unity of action is to be secured, and, I believe, the only method in which large but separate interests of this nature, having such intimate relations to each other, can be controlled. The pooling question has nothing to do with this organization, as a whole. The individual members may or may not resort to pooling, if it be thought that thereby all motives for cutting rates, and for strife between the railroads can be removed. I have endeavored to show that such strife is inconsistent with maintaining indiscriminating tariff rates, and inconsistent with the object of your proposed legislation.

The CHAIRMAN—If I understand you, however, the plan which you suggest there for the adjustment of difficulties arising in relation to shipments, should be sanctioned by the

government, and its enforcement left to the organization which you have described.

MR. FINK—I consider that this is the only practical way in which the government could aid the railroads, and through which the evils of the transportation business could be permanently remedied. The railroads may be able to do without this aid, but it will take them longer to accomplish the result, and they may not be able to accomplish it at all. I do not ask now that Congress should pass such a law, because I do not believe it is in a position to pass any law understandingly upon the subject. If your Committee had the time to consider the matter, or would employ experts to examine into it, who would report to you, then you might draw up a law understandingly; but this you cannot do in a few hours, or in a week, or a month, or in the short space of time that your committee can possibly devote to it. But we do not ask any legislation at present, except such as looks to the collection of information, on which hereafter legislation may be intelligently based.

THE CHAIRMAN—I can see the wisdom of your plan, so far as concerns the reconciling of difficulties between different railroads; but is the shipper, who has been wronged, to have no appeal except to the very railroads who have wronged him?

MR. FINK—Through the proposed organization and methods of management, the wrong which is now being done to the shippers, by discriminating railroad rates, is to be avoided, and there is to be hereafter no more cause for complaints. The wrong has its origin in the want of unity of action of the several railroad companies. When you legalize this association, with the view of assuring this necessary co-operation of the railroads, you remove at once the causes of complaint. In order that you may be sure of this, a tribunal should be established by the government to supervise the operation of such associations, and to see that they are used only for the purpose for which they were organized, and to see that they accomplished that purpose. And such tribunal could, at the same time, also serve the purpose of adjusting any difficulties that may arise between the railroads and the public.

The CHAIRMAN—We have recognized and carefully avoided the difficulty and impropriety, and, in fact, the impossibility of members of Congress, charged with so many other duties, attempting to fix rates of freight. We have, therefore, attempted to frame the bill so as to declare four great principles that do not involve the regulation of freight at all, but simply the very idea you have just been reading—that of abridging the monopoly powers of railroads.

First.—Demanding that there shall be no discrimination in regard to freights. It does not take an expert, but only an honest man, to see that that is right.

Secondly.—That there shall be no rebates or drawbacks. It needs no expert to see that this is but right and proper.

Thirdly.—That there shall be no pooling of rates, because that denies to the people all the advantages that would otherwise accrue to them from competition between the roads.

Fourthly.—Prohibiting the charging of more, in proportion, for a short distance than for a long distance on the same haul.

We have endeavored to frame a bill which would avoid the difficulties to which you have referred; which would secure incalculable benefits to the people of the country, and involve no injury to any company, nor embarrass the railroad companies in any manner in which they ought not rightfully to be restrained. We do not even undertake to say whether they shall charge high rates or low rates. We propose only to establish a few general rules for the guidance and control of railroads—not to enter into a detailed investigation of the subject of the regulation of freights. That question had probably better be left to the railroads themselves—possibly under the supervision of a commission which it may be found necessary to establish. I mention these points, because they seem to me to be exactly in aid and furtherance of the plan you have suggested.

MR. FINK—I have been earnestly at work to carry out the object of this bill—to prevent unjust discrimination—and if I had the least hope that your bill would aid in accomplishing that purpose, it would find in me a most earnest supporter; but I am sure that you cannot remove the evils of the transportation business in the way you propose. The trouble

arises from a complication of facts for which you have not provided. It is one thing to recognize what is right and to say that the right shall be done, but it is another to carry a principle into practical execution, in the complicated affairs of life. You may tell a sick person "you must get well," but that don't cure him. You must apply the proper remedies that will remove the causes of the disease, in order to make him well. This proposed measure does not do that, and this is the reason that I object to it, and have endeavored to show why it does not reach the evil, and what is the proper and necessary measure that will reach it. I think I can prove to you the impracticability of the measure by applying it to a special case.

Take, for example, the condition of affairs at Chicago. The terminal roads at that point have now agreed upon uniform rates of freight from Chicago to the East. They are working in harmony with each other and deal fairly by the public.

Under the operation of your bill, the Grand Trunk and other Canada railroads can make any rates they please through Canada to Montreal, Halifax, Portland, Boston and New York. You have no jurisdiction over that portion of the road which lies in Canada.

The Canadian roads can pay rebates, pay drawbacks, make special and secret contracts, and secure all the business which they may desire, and take it away from the American roads.

You cannot justly restrict the free competition between a number of competing roads, unless you apply the restriction to all alike. In this case, you must first annex Canada, or build a Chinese wall upon the boundary lines, before you can restrict the American roads in competing with the Canada roads, in the usual way in which such competition is carried on. If you cannot bring the Canada roads within the operation of your bill, correct as may be the principle embodied in it, you cannot accomplish its purpose, and you must do great injustice to the American roads. This is one of the difficulties of the situation which your bill does not overcome.

If you will show me how you can carry out the provisions of this bill, without ruining the American railroads and build-

ing up their Canadian rivals, I shall be a convert to the measure, as it would otherwise greatly aid me in my work.

The CHAIRMAN—It is true that we cannot affect the action of the roads in Canada, but we can affect commerce in the United States. The commerce that comes from State to State, the commerce that goes from the United States to a foreign country, or comes from a foreign country into ours, comes under the provisions of this bill. And right here the question arises: Can the Grand Trunk Railroad, or any other railroad, carry commerce so much cheaper than ours as to destroy the value of our roads? If we cannot carry as cheaply as they, and make money at it, then the people of the United States are in a bad condition.

Suppose that we pass this bill; is there anything in it that will change the relations of the railroads in the United States to those in Canada? Will not the same road be open to them to make rates as now?

Mr. FINK—The relations of the Canada roads to the American roads would be very materially changed by your proposed legislation in this respect: You leave the Canada roads free to violate the law at pleasure, and oblige the American roads to obey it, and thereby take away from the latter the usual means of self defence. The American roads can help themselves, as they do now, if you will not bind them and leave their rivals free. While you profess to be in favor of competition, the law which you propose to pass interferes with free competition. It binds one side and not the other. This makes all the difference in the world.

If you were a soliciting agent in the employment of an American railroad, you would soon discover the change that your law would make in the relations of the competing roads.

The Canada roads will probably make similar agreements with the American roads, as they do now, in regard to the joint rates of transportation. They would, no doubt, agree upon a joint through tariff, and publish it.

The agents of the Canada roads would not say openly, "We will give you lower rates than the American roads," but they could say, "If you ship through Canada we will pay you a rebate." In that way they could secure all the busi-

ness they want ; but when the American roads, in self defence, follow the same practice, you propose to punish them ; you propose to fine them one thousand dollars for each offence, and leave the Canada roads at liberty to continue the same offence. You say to the American roads, after they discover that the Canada roads make lower rates, "You must wait five days before you can meet the lower rates." After they have waited five days, and then publish a lower rate—as low as the Canada roads—the same process of underbidding goes on, and they have again to wait five days before they can put themselves upon the same footing with their rivals, and so on, until all their business is gone, and rates get so low, that by mutual agreement they are made higher again ; and then the work of lowering, by underbidding each other, commences again as heretofore, and so on.

The CHAIRMAN—Is not this very thing, of which you now complain—the opening of competition—in the interest of the American people ? Does it not secure the very competition which we all desire and advocate ?

Mr. FINK—I don't think that this is competition ; at any rate, it is not free competition. If you will keep your hands off, the American roads can fight it out as they have done heretofore. But you propose to tie the American roads, and leave the Canada roads free ; that is the objection to the bill. I am not an advocate of fighting between railroad companies, but if there is to be a fight, let it be a free fight. The Canada roads, under this law, could virtually carry all the business if they wanted it, and the American roads would be helpless.

The passage of your bill would make no difference as to the ultimate results of the strife between the railroads ; the same unjust discrimination, the same fluctuation in rates, would still be continued thereafter. The only result of your proposed legislation is, that in addition to the past evils, you add new ones ; you interfere with the free competition between the American and the foreign railroads, to the injury of American property and the benefit of Canadian property. That is all you possibly can accomplish by enacting this bill.

I have spoken, however, to very little purpose, if I have

not made it plain that the fighting between the railroad companies results to the injury of the people, and not to their benefit.

The difficulty with your proposed measure is, that you want by it to keep up the fighting, and at the same time you want to prevent unjust discrimination ; but this is an impossibility. You can have only the one or the other ; it is impossible to have both at the same time, and you must make up your mind which of the two you prefer.

I do not propose to restrict legitimate competition ; I propose only to restrict the strife between the railroad companies, which ultimately must cripple and destroy the competitors, and which is carried on at the expense of the people at last, at the expense of the small shippers in favor of the large shippers ; at the expense of the local shipper in favor of the through shipper. I wish to restrict the so called competition, which is carried on secretly by the payment of rebates, against the laws of the country, and which partakes more of the nature of cheating than of open and legitimate competition. I wish to restrict the competition that is not based upon the laws of supply and demand, or upon natural laws, but which is entirely arbitrary and at the will of a single railroad manager, in whose power it is now to make and to unmake, to destroy and build up fortunes, and to unsettle the values of articles of commerce throughout the whole country.

This is the sort of competition, if that be the proper name for it, which I desire to restrict, and which must be restricted before you can prevent unjust discrimination—before you can secure permanent and uniform rates of transportation—before you can attain the avowed object of your proposed legislation. Your bill makes no provision whatsoever to stop this kind of competition—this strife and fighting ; on the contrary, from your remarks, it appears that you wish to encourage it.

Now, it is much more important that the rates should be steady and permanent ; that merchants should be able to calculate, with some degree of certainty, as to what may be the rates of transportation at all seasons of the year, than that

they should be excessively low at one time and correspondingly high at another, and that no one at any time can know what they will be the next hour.

Allow me to illustrate the operation of this so called competition between railroad companies, in a single instance, by which I may make myself perhaps better understood than by merely speaking of the general principles involved. For example, take the terminal roads in Chicago. I have already explained that Chicago is the regulator of the rates throughout the whole country, on account of its command of water transportation. The roads carrying freight from Chicago to the East, have now an understanding, according to which each one agrees to be satisfied with a certain proportion of the total business from Chicago, and each one pledges itself not to pay rebates or secretly to lower its rates, in order to secure more than this agreed proportion. There is, of course, no objection to any one of the roads reducing its rates openly, if it chooses to do so—the other roads can make similar reductions; but it is the agreement that these reductions, if any are to be made, shall not be made secretly, in order that one shipper or one railroad may not have an advantage over the other. An agreement of this nature has been incorrectly called “pooling,” and pooling is to be prohibited by the Reagan Bill. But you will observe that this agreement is made exactly for the purpose of carrying out the object of the Reagan Bill, which is to prevent the payment of rebates, and thereby prevent unjust discrimination. The true nature and object of agreements of this kind are little understood, otherwise it is to be supposed the prohibition in the Reagan Bill of the only practical measure by which the object of the bill can be carried into practice, would not have been made.

This inconsistency in the bill is probably due to the misleading word “pooling,” which word being a gambling term, has not the least application to the process to which it is here applied. The legislation very likely is directed against the word, not against the process or the method itself, which has for its object the maintenance of permanent and uniform transportation tariffs, and is simply an agreement be-

tween the railroads to abstain from the illegal modes of deceiving and cheating each other, and to deal fairly and openly with each other and with the shippers.

I have no doubt, when this subject is once intelligently considered by the judicial tribunals of this country, the conclusion will be reached, that the laws of conspiracy, which some lawyers say apply to the so called pooling arrangements, find no application, and that instead of such arrangements being considered against public policy, it will be decided that they are for the public good, and entitled to the protection of the law ; affording, as they do, the only practical means by which the abuses in railroad management can be corrected.

It is a mistaken idea that these arrangements are compacts for the purpose of preventing competition, and it is upon this erroneous view that the objections are based. These agreements to divide the traffic between competing roads are changeable, according to the interests of the parties to the agreement. If one or the other railroad company improves its facilities of transportation, or improves its connections, and thinks it is entitled to carry a larger share of the traffic than it has been allowed in a division, it calls for a revision of the compact, and a readjustment must be made according to the merits of each line. In this way the spirit of competition is kept alive ; each road continues to strive to secure the largest patronage ; but instead of doing so by paying rebates and by violating the laws of common carriers, it has to use open and legitimate means of competition to gain its end.

The objections to the so called "pooling" process are therefore based upon an entire misapprehension of its nature and of its good effects. It possesses the great advantage over absolute consolidation of railroad property—which is not considered illegal, nor against public policy—that it keeps up the spirit of competition, while at the same time it secures the advantage of absolute consolidation—unity of management.

It was not my intention, however, to consider here the legal aspect of the so called pooling methods. I merely desired to show its effect in one particular case, at Chicago, where such an agreement to divide traffic between four competing

roads has now existed for some nine months, and has worked satisfactorily in maintaining uniform and indiscriminating rates of transportation to all shippers. This agreement is now likely to be disturbed by the entrance of a new competitor. The Grand Trunk Railway of Canada is about finishing an independent line into Chicago, which gives them a continuous road, under one control, from Chicago to Montreal and Portland. Under the past practice of railroad management, whenever a new competitor shows its face, either the old roads try to keep it out of the business, or the new road, in order to advertise itself, becomes the aggressor, and makes for a time very low rates of transportation, which, of course, have to be met by the other roads. The entrance of the Baltimore and Ohio Railroad into Chicago some years ago, led to a general railroad war throughout the whole country, and resulted in all the discriminating practices that gave rise to such bitter complaint on the part of the people. And every time a new railroad makes its appearance as a competitor, with established lines, similar results generally take place. Now let us consider whether this is really to the advantage of the people.

The new competitor does not reduce his rates because he has any greater love for the people and wants to benefit them; the only object he has in view is to secure a foothold, and ultimately to get the largest proportion of the traffic at the highest possible rates. The only object the old competitors have in view, is to keep the new competitor from securing such foothold, and to retain as many of their old customers as may be possible.

All railroad wars, or most of them, arise from this desire of each company to secure the largest amount of traffic, with the view of making the most money out of it. Now, if such wars could be carried on between the railroads immediately interested, without affecting any other interests than their own, the desire of the people usually expressed in favor of this warring plan could be readily understood. But reflection should long ago have convinced at least the minds of our foremost statesmen and legislators, that while there may be some immediate good resulting to some few parties from a sudden

lowering of rates, and from the continuance of unreasonably low rates during short periods of time, the final result of these wars is most disastrous to the best interests of the whole country.

In the first place, the war in which a few railroad companies in Chicago may engage, necessarily spreads all over the country, on account of the interdependence of railroad tariffs, which I have endeavored to explain, and affects the value of the railroad property in the whole country, or in large sections of the country. Innocent stockholders (and they are citizens of this country, entitled to protection) who have no direct interest whatsoever in the issue of the quarrel between distant roads, and who depend upon the returns from their property as their means of living, are deprived of their income. One road after another may be brought into bankruptcy. The wealth of the country is not increased by the destruction of this great property, but must necessarily be reduced. The many industries depending upon the prosperity of railroads must necessarily suffer with the railroads. The employees have their means of living reduced by reduction in their wages, sometimes to the extent that riot and bloodshed cannot be prevented.

If the ruinous results of railroad wars had no other evil effect upon the welfare of the nation than those I have mentioned, and they are not fancied but real, as the experience of the last few years has abundantly proven, the legislators of this country should be opposed to these wars, and should devise means to prevent them. But the evils named are only the incidental results. The immediate results are the injurious effect upon the commerce of the country, the unsettling of commercial values, the fluctuating and unjustly discriminating rates of transportation—in fact, all the evils which you seek to remedy by the proposed legislation.

Now, let us consider for what object these railroad wars are undertaken, in which the whole country is so injuriously involved. There are now four, and soon there will be five railroad companies terminating in Chicago, carrying freight to the East. The only question between these roads that may lead to a war of rates is, how many tons of freight shall

each of these railroad companies carry out of Chicago—whether the Michigan Central shall carry 31 per cent., the Lake Shore 26, the Pennsylvania 35, the Baltimore & Ohio 8 per cent. of the total tonnage ; (these are about the proportions in which, for the last four or five years, the business has divided itself regularly, without any effort at restrictions), or whether each of these roads shall carry a slightly greater or less per centage of the whole tonnage, more or less, and how much each of these roads shall give up to the Grand Trunk when it completes its road to Chicago, are considered the great and momentous questions at issue. The public have not the least direct interest in their settlement. As long as a Chicago merchant can ship all his goods at reasonable rates—paying the same as other shippers do for like service—it matters not to him how many tons he ships *via* one road or the other, provided both offer the same facilities for the same price ; neither does it matter to him in what proportion the total traffic from Chicago is forwarded by the several roads.

While the people have no interest whatsoever in the issues involved in these private quarrels between railroad companies, their interests are very materially affected by the quarrel itself, if it should result in a war of rates.

It is in the power of a single railroad manager, be he the manager of the Grand Trunk, or of any of the American roads, to involve, by his action, a very large part of the railroad system of the United States in these private quarrels, thereby destroying the value of a large portion of the railroad property, unsettling the commercial value of articles of transportation, making all commercial transactions unsafe, or at least attended with great risk, and causing the ruin of private fortunes.

Consider, for a moment, that there are now some twelve million bushels of grain stored in New York and other Eastern cities, that have paid (at the rate of 40 cents per hundred pounds, which has prevailed for the last few months) 24 cents per bushel for transportation from Chicago to New York, and in the proportion of relative distance, from other Western cities to New York.

Suppose, that by the sudden disruption of the agreement to maintain tariff rates, which now exists between the Chicago roads, in consequence of the entrance of the Grand Trunk Railway as a new competitor, the rate is reduced from 40 to 20 cents, which is not an unusual thing in cases of this kind ; the value of the grain held by private individuals in New York and the East would likely be thereby reduced, at the rate of 12 cents per bushel, to \$1,440,000. The holders of the grain in the East are subjected to this great loss at any time, and perhaps as the result of the action of a single railroad manager, in contending with his competitors for the carriage of a few tons of freight, the whole revenue from which, for his own road, may perhaps be only a trifle, as compared with the great losses he inflicts upon the innocent people engaged in commercial transactions.

It is true, that at the same time the value of grain in the East is reduced, its value in the West may be increased ; but is it right to benefit one set of people at the expense of the other, by the mere arbitrary ruling of one man, or a few men, in their selfish strife for a small amount of increased revenue for their roads ? Under our present system of management this may be done.

It is this peculiar feature of the railroad problem to which I desire to call your especial attention. The whole root of the evil lies in this unrestricted power in the hands of one man or a few men, to affect the interests of the whole people ; and the great difficulty of the problem is, to devise the proper means by which this power can be restricted, without interfering with the proprietary rights of each railroad company to make and regulate its own rates of transportation—a right, no doubt, possessed by it within the limits prescribed by law.

Now, the Reagan Bill makes no provision whatsoever for restricting this dangerous power of railroad managers, but it seems to be rather the intention of its author to encourage it.

The railroad managers are taking a different view of this subject, and a great number of the most intelligent have adopted the proper means to restrict that power. They have agreed to transact their business hereafter in such a manner as to prevent these disastrous railroad wars, by endeavoring

to settle all the questions that may arise in the management of the roads, which may lead to disruption, by negotiations and voluntary agreements; and in case such negotiations do not result in peace, they have agreed that they will submit the questions at issue to arbitration, and abide by the decision of the arbitrators. This is the simple plan, and the only correct one, by which the power of a single railroad manager is restricted and subjected to the just decision of a neutral and impartial tribunal, and the only plan by which the abuses of railroad property and its management can be prevented.

I have already fully explained the question that will shortly be raised at Chicago upon the entrance of a new competitor in that city. It is, "What proportion of the total business each of the several roads shall carry out of that city?"

Now, instead of going through a year or two of railroad wars, according to the old methods that were pursued at the time the Baltimore & Ohio Railroad made its entrance into Chicago, that question is to be directly settled between the railroad companies themselves. They are to decide as to the proper amount of business each road is to carry, considering its facilities, its connections and its standing in the community; and failing to come to an agreement, they are to call upon the Board of Arbitration appointed for that purpose, to decide that question; and this being done, it puts at once an end to the cause of war, and prevents all its injurious consequences. It can be readily demonstrated that the adoption of this method is both in the interests of the railroad companies and in the interests of the public. No matter how unjust the decision of the arbitrators may be—within the limits it is possible for them to err—each railroad company will earn more money than by going to war, and the public, being secured in reasonable rates of transportation, will benefit by the permanency and uniformity of rates.

When private parties cannot agree on questions that may lead to dissension and quarrels, they are obliged to submit them to the adjudication of properly constituted courts. They are not allowed to involve their neighbors in their quarrels; they are not permitted to set their own houses on

fire to spite each other, and destroy the property of their innocent neighbors. And why should the same restrictions of the law not be applied to warring railroad companies, whose action and whose management involves such large public interests, and who are really the creatures and the servants of the public?

I hope that my reasons are now better understood why I ask Congress to sanction, under the supervision of the general government, the agreements made between railroad companies, for the purpose of settling all questions that may lead to a war of rates and to a disturbance of the properly established transportation tariffs of the country. It is time that the antiquated notions that have taken such a strong hold of the legal minds of the country—that all agreements between railroad companies, in regard to transportation tariffs, are against public policy, and are in the nature of conspiracies—should at last give way to a proper understanding of the true nature and objects of these agreements, and to a conviction of their necessity and of their highly beneficial results upon public welfare; and instead of prohibiting such agreements—as it is intended to be done by the bill under your consideration—legal force should be given to them by the general government, and its power should be exercised in carrying out these agreements.

This is all that is required on the part of Congress to settle this vexatious railroad problem.

At present these agreements between railroad companies, being looked upon as of rather doubtful legality, are only voluntary, and cannot be enforced in law. Each of the parties thereto can withdraw at pleasure; and hence the people are liable to be treated to the same results of the old methods of warring between railroads, of which they so much complain, and from which they expect relief by the operation of the Reagan Bill, under the impression that that measure would afford the proper remedy. Unfortunately the bill, if enacted into a law, would leave the question exactly where it is now. It does not touch the evil, but only makes it worse.

I have no doubt that when the people and Congress once

fully understand the difficulties of the problem, they will give their aid in the direction in which I have indicated it to be necessary to secure permanency to the only plan of railroad operation in this country under which it is possible to secure to the people reasonable transportation tariffs, and prevent unjust discrimination.

The CHAIRMAN—I understand that the plan you have been describing has substantially accomplished the end of making the rates uniform and fair?

Mr. FINK—It has in the territory in which it has been put in operation.

The CHAIRMAN—Have you read the report of the Philadelphia & Reading Railroad Company that appears in the papers this morning?

Mr. FINK—I have not.

The CHAIRMAN—Is it true that the Trunk Lines have been carrying petroleum at rates that barely paid for the fuel burned in their engines, in order to drive the other roads out of the business?

Mr. FINK—They may very readily have done so. The oil carrying roads, unfortunately, are not operated, as regards the oil traffic, upon the plan I propose. The state of affairs to which you refer, is the result of a new competitor entering the field—the Philadelphia & Reading Railroad—and fully illustrates the result of this sort of competition, which may be repeated in the case of Chicago when the Grand Trunk is completed. There are now no laws to prevent it. Of course, the Reading road will, sooner or later, make an agreement with the other roads, and establish uniform and paying rates. They very likely will enter into a pooling arrangement, and this might have been done as well in the beginning as at the end of the war. The great fluctuation in the prices of petroleum might thereby have been avoided, as well as the losses on one side and the gains on the other, that were caused by these fluctuations. This is exactly a case in point, and I could not have presented a better one to show the evils of the old system of management, and the benefits that would result from the general adoption of the plan which I have endeavored to explain, and which I would desire to see

the government legalize and enforce, under such restrictions as may be necessary to fully guard the interests of the people.

Mr. Blanchard here made a statement in regard to the practices of the Reading railroad, in regard to their tariffs on coal, and after he finished, the Committee adjourned.

FRIDAY, *January* 16, 1880.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE :

I have endeavored, so far, to point out what I consider to be the true cause of the evils of which you complain, and to explain the practical measures that are necessary in order to remove them. I have endeavored to show that the evils of which you complain arise either from the intentional strife between the railroads, in their efforts to secure business, or from the want of organized co-operation and concerted and united action, which is absolutely necessary to establish and maintain a uniform and just transportation tariff for the whole country.

Now, it is very important that the gentlemen of this committee should satisfy themselves, if there are any doubts in their minds, as to whether my diagnosis of the disease is correct or not. It is necessary that the true nature and causes of the disease should be understood, in order that you may be able to prescribe the proper remedy.

I understood the honorable chairman to say, yesterday, that it was the intention of this bill to secure to the people of the country indiscriminating rates, and at the same time to encourage, or at least not to prevent, the strife between the railroads. The roads are to be pitted against each other, and, in the great trial of their relative strength, the people are to be benefited by securing the spoils.

I have spoken to little purpose, gentlemen, if I have not shown that the very abuses which the people wish to correct have been the direct result of these "battles between the giants" (as they are sometimes called), in the progress of

which the people have been crushed under their feet ; and it is the people who now demand that these wars shall cease, and peace shall reign in the future. If this bill does not aid in securing that peace, it lacks the essential part to success.

I have endeavored to show, that the act of a single railroad manager, actuated by utterly selfish motives, can affect the commerce of the people of this country most injuriously—can make all commercial transactions uncertain—can cause disaster to private fortunes, and destroy a great amount of railroad property in which the people of this country have invested a large portion of their means. It is this power of individuals, controlling the railroads, which does the mischief. It is this power which, if you want to protect the interests of the people, you must restrict and curb. I fully explained to you yesterday the plan upon which this can be done ; and it is, in my opinion, the only plan which can succeed in this country. It restricts and controls the arbitrary and inconsiderate action of a single railroad manager, and obliges him to conform to the wise regulations of the associated roads. Differences of opinion, or mere misunderstandings, are no longer to be the cause of wasteful wars and the destruction of valuable property, to the utter disregard of the rights and interests of the people ; but they are questions to be settled by adjudication and arbitration of impartial men. If you wish to curb these managers—these feudal barons—or whatever you may please to call them, and make them conform to the laws of order and of civilized government, you can do it readily. All that is necessary is to make the decisions of the courts of arbitration binding, and enforce them as you enforce the decisions of other courts of law. This is the proper and the only remedy—the only legislation that is required to protect the people, and fairly and finally to settle the railroad question. The government cannot be expected to pass laws regulating the details of railroad management, any more than it can be expected to pass laws prescribing to the physicians specific remedies, to be used to cure the yellow fever or any other disease ; but the government has a right to pass laws that shall punish physicians

and railroad managers as well, who may be accused of malpractice.

Holding these views, as I do, and being so fully convinced by observation, reflection and experience, that they are correct, I feel anxious to prove to you, before I proceed further, that all the abuses of railroad management of which you complain, arise from the strife between the railroad companies, or from the want of co-operation in conducting the competitive, or, as I may say, the interstate traffic (these two terms are interchangeable). If I have succeeded in proving this proposition to you, I have proven that the remedies proposed by the bill under consideration, are not only inadequate, but will tend to the aggravation of the evils, instead of their removal. Now, I will be glad to have you test the correctness of my position. I would ask the gentlemen of the committee to mention to me any specific complaint which they may know, or which has been reported to any member of this committee. I feel sure that I can convince your committee that every just and well founded specific complaint, in regard to the interstate commerce, which you intend to remove by this bill, is directly or indirectly traceable to the cause which I have assigned to it, and I will prove that the proposed legislative remedy does not touch that cause. I would be glad to hear the particular complaints which you propose to remedy. If you are not prepared now to inform me what they are, and will submit them to me in writing, I will analyze each complaint, and test each one thoroughly. If there is not sufficient time for this, I will make a written report to you on all the complaints which you may submit. I understand that no complaints from outside parties are now before this committee; but that there were a number presented before the committee of the Senate, at the last session of Congress. I would be glad to analyze these; and I believe that I will be able to show that a great many have already been remedied by the improved management of our railroads, since the time when these complaints were first brought before Congress. Since that time there has been a great change in public opinion regarding the railroad question. That question is now better understood, and the proper investigation on the part of your

committee, such as I propose, would tend still further to remove the vague notions that prevail, and upon which it would not be prudent or wise to act. The proper settlement of the railroad question is second in importance to no other now before Congress, and deserves a more careful investigation and consideration than it has received so far.

From the remarks made by the honorable Chairman yesterday, it appears that one of the objects of the bill is to curb the power of monopoly of railroad companies. I am convinced that this measure is directed toward the removal of evils which really do not exist. I would be glad if your committee would more closely investigate this question, and examine the special facts upon which this accusation is based. The railroads may, to a certain extent, exercise great power in fixing local rates; but even in this they are restricted. But in regard to interstate traffic, considered as a whole, the charge that the railroads are monopolies; that they could by single or combined efforts, extort from the people unreasonable rates of transportation, cannot be supported by facts. I venture to say that you have no complaint—I mean no specific complaint, against extortionate rates of transportation. The complaints which have come before you have been in regard to the relative rates of transportation—the relative adjustment of local and through rates; or in other words, the unjust discrimination in rates, which, as I have shown yesterday, cannot be removed, except by the co-operation of the railroads, in fixing and maintaining uniform tariffs throughout the whole country.

The question as to whether railroad companies are monopolies or not, as regards interstate traffic, is one that can be decided by the facts and figures on record. It is not fair, it is not right to take public clamor, or public prejudice, or public sentiment as the only authority. Examine the transportation tariffs of the railroads of the country, and you can ascertain what weight should be given to these general charges. Examine each one of them, and point out where any monopoly power has been exercised. A thorough examination, I am sure, will bring out the fact that these tariffs have been reasonable and just; and if the committee have any doubt on

this subject, it seems to me that the contemplation of the immense development of the country, and its great prosperity, which has been brought about very largely by railroad enterprise, should remove that doubt.

It would be very desirable if the committee would collect all the facts bearing upon this question; they would show conclusively that the railroad companies of this country possess no power to charge for their services what they please, but that there are conditions of limitation to which they are subjected, which completely, or to a very large extent, control their tariffs. The railroad companies are compelled to study these conditions, and to conform to them. Within the limitations imposed by these conditions, unreasonably high charges of transportation are impossible. This is an important feature of railroad management, which cannot be treated in a way to make it clearly understood in an hour or two; but before any legislation is had upon this subject, it seems to me that this branch of the matter should be carefully studied and thoroughly understood.

If it is the object of this bill to curb the monopoly power of railroads, which they are supposed to possess, in extorting unreasonable rates of transportation, when really no such power exists or is exercised, it would be much better that this bill be not enacted into a law, since it can be shown that it does not reach the real causes of the evils—the unrestricted power of separate railroad management to disturb the best devised, just and reasonable tariffs of the country—and that, instead of removing any evils at all, its execution would only increase those already existing, and create others heretofore unknown.

It binds our American roads hand and foot, and delivers them over to the tender mercies of their foreign competitors. It binds hand and foot those roads which are so unfortunate as to pass through several States, and delivers them over to the tender mercies of those that are, by accident, more fortunately located entirely in one State, and exempted from the control of the federal government. Its effect is to undo the work which the railroads have done during the last twenty years, to carry on the commerce of this country regardless of

State lines. The article of the constitution of the United States, giving the power to Congress to regulate commerce between the States, had for its object the obliteration of State lines, for the purpose of making the laws uniform throughout the whole width and breadth of the country. The Reagan Bill perverts the spirit in which this article was conceived, and proposes to use its authority for the purpose of again drawing a distinction between the commerce in one State and the commerce passing through a number of States; different laws are hereafter to govern each.

It endeavors to restrict the railroads passing through several States, and to leave free those located in one State, thereby creating discrimination to a greater extent than has heretofore existed, and at last failing to attain the object for which the bill is to be enacted.

The Reagan Bill proposes to prevent unjust discrimination by common carriers; and yet its provisions only apply to one class of common carriers—to the railroads—and not to the common carriers by water, who are to be left free to violate the laws and to practice all the abuses which it proposes to prohibit. It restricts and binds the railroads from meeting the water competition upon an equal footing; and thus, while it does not prevent unjust discrimination, it creates unjust distinction between one class of common carriers and another, and restricts the free competition between these two classes of carriers, which is much more effectual and essential in securing cheap transportation to the people than any possible law Congress could pass.

I know that the intention of the author and advocates of this bill is good. The difficulty arises simply from this: that all the facts bearing upon this important subject are not known to them, and I believe are not known to any of the members of this committee, and have as yet had no consideration whatever.

It is, of course, impossible for me, in the brief time allowed, to enter into a more thorough consideration of the subject. I have to apologize for having detained the committee already so long, and yet I have not entered at all upon the discussion of the particular features of this bill, but have confined my-

self to the general principles involved, in the hope that, by showing that these principles are incorrect, your valuable time might be saved from being occupied by the consideration of the details. As no structure can be permanent, no matter how carefully it may be designed, if it be not erected upon sound foundations, I have first examined the foundations of this bill, and I am compelled to report that I do not find it based upon solid facts. If I have succeeded in convincing you of this, the examination of the details of the structure need not be further continued. If I have not, then I shall be glad to be informed of any doubts that you may entertain, feeling sure that it is only a matter of time and attention to have those doubts removed from your minds.

I am free to say, that when I first appeared before this committee, I intended to refer only in the most general way to the subject under consideration, being under the impression—as most railroad men are—that any opinions they may express upon railroad questions before legislative bodies would either not be understood or would not be allowed to have any influence upon legislation. But since I have been here, and witnessed the interest you have taken and the patience you have exercised in listening to dry and uninteresting arguments, I feel convinced that I was in error, and I have, therefore, entered more fully into the details of the question than I at first proposed. The subject is one in which I take a great professional interest. In my position as a railroad manager, I became convinced of the utter helplessness of the railroad companies to control so important a question as the establishment and permanent maintenance of proper tariffs; and looking at the matter at first as a mere question of railway management, with the view to reforms, I discovered, upon closer investigation of the subject, that the public were equally interested with the railroads in the reforms necessary to bring the management of this great railroad property under intelligent control. That property had heretofore been grossly abused—indeed, a considerable portion of it has been ruined—from the want of such control; and for the last four years I have devoted my time almost exclusively to carrying out the measures of reform, which I have endeavored to ex-

plain to you as necessary and beneficial both to railroads and the public.

It is proper for me to state, in justice to myself and all concerned, that I do not appear before you in the interest of any particular railroad or railroads. I have not exchanged a word with railroad managers as to their views, or as to the line of argument that I should pursue before this committee. I do not even know to what extent the general views I have expressed in regard to the character of legislation required may be endorsed by others. I express only my own individual convictions. You must, therefore, not hold any railroad manager, nor the railroad community at large, responsible for anything that I have said, farther than the views expressed may have been put already into practical execution.

The objects which the author of this bill had in view in framing it are the same that I have pursued, with a great deal of labor, and some sacrifice of self-interest, for several years past; and I would not oppose the measure if I thought that it would aid me in the least degree in the work which I have undertaken. But I sincerely believe that the enactment of this bill will accomplish no good, although its intentions are excellent; but on the contrary, it will retard, in a great measure, the efforts of the railroad managers, which are now being made, toward the final solution of the railroad problem in America.

I hold myself in readiness to give to the committee any further explanation they may require.

In conclusion, I desire to call the attention of the committee to the argument which I had the honor to make before the Senate Committee during the last session of Congress, printed copies of which will be placed in your hands. I have endeavored to show in this argument, that the measures proposed to carry out the object of the Reagan Bill are entirely impracticable. They are based upon the supposition that the railroad companies could be obliged to make continuous shipments beyond the line of their own roads; that they could be obliged to act as forwarders, and to enter into partnership with, or act as agents for, and to allow their rolling stock to be used by other companies against their own free

will and consent. I do not know of any law in existence, nor does it seem to me possible that any law could be enacted, in this country at least—it might be done in Russia—that could take the control of the property of one railroad company and put it at the disposal of another company, without the consent of its owners. If Congress has such power, it has the power to order the national banks to loan money to parties Congress may designate, without the consent of the banks; or to confiscate any private property at pleasure. If Congress has not that power, then it cannot enforce the Reagan Bill. The railroad companies have only to stop continuous shipments, to go back to the old practice and act simply as common carriers over their own roads, to discontinue issuing through bills of lading over other roads; to discontinue the guaranteeing of through rates; to insist upon keeping their own cars on their own roads; to deliver the goods at the end of their own road to the connecting carrier; to unload the goods at State lines or at the end of the road of each separate company, all of which the railroads may do if they so choose to do, and thereby make the Reagan Bill entirely inoperative; and in that case the result would be to deprive the people of the transportation facilities through which so much has been done to develop the commerce of this country, and thereby obstruct commerce to such a degree that, I have little doubt, the people would rise up as one man and stop all further efforts of Congress to regulate commerce in the manner proposed.

In my argument before the Senate committee, I have also endeavored to show that the fourth section of the bill, according to which it is to be unlawful to charge or receive any greater compensation for carrying property a shorter than a longer distance, is unjust and unwise, as tending to restrict competition between the railroads and the water routes.

As a general rule, this principle is fully recognized and acted upon by railroad companies, as I have already explained, and it is proper and right that it should be; but there are exceptions to it, as there are to all general rules regulating railroad tariffs. Should it be attempted to enforce this rule in all cases, it would result to the injury of the pub-

lic, not to its benefit. For example, take the traffic between New York and New Orleans, the bulk of which is now carried by ocean steamers at very low rates; the railroad companies can compete with the steamers for the higher classes of freight, on which the cost of insurance is considerable, and they derive from this business a small profit. Now, the effect of the proposed law is to oblige inland rail routes between New York and New Orleans to charge no more from New York to the interior points located on these routes—say to Atlanta or Montgomery—than the ocean steamers charge from New York to New Orleans. There is neither sense nor justice in such a demand, nor can it be enforced. The railroad companies cannot work as cheap as ocean steamers, and place the interior points precisely upon the same footing as if they were located upon the seashore. If the attempt is made to force them to adopt the low rates from New York to New Orleans upon the whole of their inland business, they simply would retire from the New Orleans traffic altogether, which, compared with the inland traffic, is small, both as regards the tonnage and the profit derived from it. The only result of the enactment of the Reagan bill in this case, would be to prevent the railroads from competing with the ocean steamers, and to give to the latter the monopoly of carrying freight between New York and New Orleans, without in any way restricting the railroads from charging such rates, as they could, to the interior points. The tendency would be to increase their rates on the inland freight, to compensate for the loss of profit on the New Orleans business. The ocean steamers would probably increase their rates of transportation to New Orleans as soon as the railroad ceased to compete, and the people of New Orleans would be deprived of the facilities and convenience of railroad transportation.

This again may serve as an illustration of the difficulties encountered in dealing with the transportation business by legislative enactments, in accordance with abstract principles, no matter how correct and honest they may be, and how difficult it is for legislators, not acquainted with the commercial features of the transportation business and its practical

workings, to foresee the operation of laws based simply upon abstract principles.

The Honorable Chairman said yesterday, that in framing the bill, he had endeavored to avoid difficulties of this nature, and concedes that the details of regulating freight tariffs had better be left to experts: yet, notwithstanding these good intentions, he embodies in his bill a clause, according to which he proposes to give the power to the proprietors of an ocean steamer running between New York and New Orleans, to fix absolutely the tariff for the railroad companies from New York to interior points—Atlanta or Montgomery, for example—upon the same basis as if these cities were located upon the Atlantic coast. In case the railroad companies do not accept these tariffs, and they are not obliged to accept them, he causes competition with the water routes to cease, and withdraws the facilities which under the free operation of commercial laws the railroads are now able to offer to the City of New Orleans, thus obstructing commerce, with the honest intention merely to regulate it.

There is another provision of the bill which is of the same impracticable character. The fifth section provides that all persons engaged in carrying property, as provided in the first section (persons engaged alone or associated with others in the transportation of property from one State to one or more others), shall adopt and keep posted up schedules, which shall plainly state:

First—The different kinds and classes of property to be carried.

Second—The different places between which such property shall be carried.

Third—The rates of freight, etc.

Now, if it be meant that the terminal railroad companies shall post the tariff to all points to which they now direct shipments over other than their own roads, it is presumed that Congress can force railroad companies to associate themselves with and to act as the agents for other roads; also that they can be obliged by law to act as forwarders for the public; a power which Congress does not possess. Should the railroad companies, therefore, not wish to carry out the

provision of this bill, they have only to cease to associate themselves with others in establishing tariffs, and to cease to act as agents for each other, which they now have voluntarily undertaken to do for the convenience of the public.

Each railroad company can only be obliged by law to publish its own tariff; the enactment of this bill would likely result in forcing them to fall back upon this, their legal right, and in that case this legislative enactment would simply have the effect of obstructing, not of regulating commerce, and the public would be the sufferers.

Here, again, is an illustration of the fact which I have endeavored to demonstrate, that no measure for the proper conduct of the transportation business can be devised, that does not first secure the co-operation of the railroad companies themselves.

Another impracticable provision of the bill is contained in the ninth section, according to which nothing in the act shall apply to the carriage of property less than an ordinary car load. It is difficult to perceive why this discrimination between car loads and less than car loads is attempted. If unjust discrimination is to be avoided, why should it not be avoided upon all quantities of freight; why upon car loads of freight alone? Why add another unjust discrimination between car loads and less than car loads to the great list of discriminations already in existence? Apart from the inconsistency in this provision of the bill, it is entirely impracticable to enforce it, and for this reason the whole operation of the bill is practically annulled. There is no fixed quantity constituting a car load. A car load weight is as indefinite a measure as "a handful" or "a drop." There may be small or large quantities comprehended by it. The bill does not determine what is a car load; it says, "an ordinary car load."

The maximum or minimum weight of car loads is generally determined by railroad companies; but it may be different upon different roads, according to the capacities and construction of the cars. Should it be attempted to fix by law a standard for a car load, say, for example, 24,000 pounds, nothing would be easier than to evade the law by loading, 23,999 pounds, or any less quantity. Surely Congress has no

power to ask each shipper in each single instance how many pounds he must load in a car.

This, again, is another instance of the impracticability of legislating in detail on the subject of railroad tariffs and transportation. I have referred to the matters more in detail in my argument before the Senate Committee of Commerce, and respectfully refer the members of the committee to it; I have merely given here its general conclusions.

Admitting the correctness of the views expressed by the Honorable Chairman—that it only requires an honest man to lay down the correct principles that should guide railroad legislation, it must be perceived from an examination of the practical bearings of a number of the provisions of this bill by which these principles are to be put into operation, that it is not quite so easy a matter as it may appear at first sight. I do not think that it is in the nature of the case that the tariff question can be directly controlled by any principle other than that already fully embodied in the common law.

The only proper measures by which the government can exercise more direct control over the transportation business, is either by the purchase of all the railroads in the country or through the co-operation system, according to which the railroad companies co-operate with each other, and with the government, for the attainment of the object in view. I am sure that this object cannot be secured without the co-operation of the railroads, nor is it likely that it can be secured without the aid of the government.

I desire to have it fully understood that I do not object to governmental supervision of the tariff question; on the contrary, I think it not only desirable, but necessary; but such supervision must be of the proper nature to bring about the result for which it is undertaken.

The railroad managers fully understand that the transportation business must be conducted in accordance with the public interest, and they are desirous to comply with every reasonable demand, and will gladly give their aid in securing that good understanding which is so desirable. They object, however, to the methods proposed by legislators to control the railroad property as contemplated by this bill, which is

based upon an entire misapprehension of the nature of the transportation business, in ignorance of the true causes which lead to the evils sought to be remedied.

It is not in the power of legislation or in the power of a single railroad company to remedy these evils. The causes are inherent in the whole system, and inseparable from the conduct of the transportation business by a great number of competing lines, as long as each is unrestricted in its action regarding the tariffs. These evils can, therefore, only be overcome by co-operation of the railroad companies, under the general supervision of the general government, in the manner in which I have explained. It is only in this direction—not by direct legislation—that the railroad problem in this country can ever be solved. The establishment of a commission, with advisory power, to aid the railroads in their efforts to solve this question, and giving full publicity to the acts of the railroad companies, is the only measure that can wisely be adopted by the government in the present state of the question.

At a future time, when such commission has gathered all the facts and fully investigated the subject—when the public is better informed—it will be time to decide whether anything further can be done, and what it may be best to do.

[At the close of Mr. Fink's argument, a discussion took place, during which Mr. Fink was requested, by several members of the committee, to embody in his printed argument his views more particularly in regard to the effect of water competition upon railroad tariffs, and the practical effect which the clause of the bill, stipulating that the charges for short hauls shall not exceed those for long hauls, will have upon the competitive business of railroad companies, and also to give a fuller explanation of the pooling system.

Instead of referring to these several subjects separately, in rewriting the argument, they have been treated of in their proper places, so as not to interfere with the continuity of the argument.]

INTERSTATE COMMERCE.

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ARGUMENT

OF

ALBERT FINK,

BEFORE THE

COMMITTEE ON COMMERCE

OF THE

UNITED STATES

HOUSE OF REPRESENTATIVES.

WASHINGTON, MARCH 17 AND 18, 1882.

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1882.



ARGUMENT OF MR. ALBERT FINK.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: Your committee has under consideration a number of bills that have for their object the regulation and management of railroad companies in the interest of the people, and the remedy of abuses supposed to exist in the conduct of the railroad transportation business.

The problem is one that has been repeatedly considered by Congress and State legislatures, and not only by the legislative bodies of this country, but those of all civilized nations; and yet up to this time little progress has been made toward its final solution. This fact alone suggests the difficulties and intricacies of the questions with which you are to deal.

In England a most thorough parliamentary inquiry was made some ten years ago. The committee having the matter in charge consisted of the foremost men of England, viz, Mr. Childers, Earl of Cowper, the Marquis of Salisbury, the Earl of Derby, and other equally prominent men. Their report contains one thousand large printed pages. The conclusions, however, drawn from the testimony can be stated in a few words. The committee found it impossible to devise any legislation that would cure the evils which it sought to remedy.

The only specific action recommended by the committee, and which was carried out as the result of this investigation, was the appointment of a commission with power to adjudicate all cases of complaint of the people against the railroads, and all questions of difference between the railroad companies themselves.

This commission, although clothed with extraordinary power, has, no doubt, done some good work, but it has certainly not succeeded in remedying the evils of railroad management of which the English people complained.

This is obvious from the fact that at the present time, ten years after that investigation, another Parliamentary committee is engaged in the same work, for the purpose of examining the same complaints, with the view of suggesting remedies for the same difficulties that existed ten years ago.

The people of France make the same complaints against railroad management as are made in England and America, notwithstanding the fact that the State reserved the authority to control the railroads and is practically the owner of the roads. It has guaranteed in most cases the interest on the capital invested by private companies; it also contributes to a sinking fund in case the private companies are unable to meet their obligations, by which their indebtedness is to be extinguished, at the expiration of one hundred years after the granting of the charter, when the railroad property becomes absolutely the property of the State. The private companies therefore incur no risks in these railroad enterprises, and yet they are entitled to the surplus earnings; the deficit comes out of the treasury of the State.

Under such conditions the State has the right, as it ought to have, to control almost absolutely the railroads in the interest of the people; but, notwithstanding this power, the French people are by no means satisfied with the management of the railroads. In fact, if you were to read the articles that are published in the French press, particularly in the *Republique Française*, the organ of Gambetta, you could readily imagine that they were written in New York by the leaders of the present crusade against American railroad management.

The same complaints on the part of the people, and the same unsuccessful efforts toward a remedy, have been made everywhere where there is an extended system of railroads, whether the property is controlled by the State, as in France and other European countries, or by private corporations, as in England and America.

From these facts the conclusion may be drawn that the evils encountered in the management of this great property in this country are not the result of any greater wickedness on the part of the American railroad managers, but that they are inherent in the system of railroad transportation itself.

This system has worked a greater revolution in our modern civilization than any other single event recorded in history. It could not be expected that such a revolution could take place without friction. The adaptation of the new to the old, the abolition of the old and the substitution of the new constitutes the railroad problem you are expected to solve.

The best intellects of all civilized nations where the modern transportation system has been introduced have grappled with this subject, but they have not thus far succeeded in accomplishing the desired end. If your committee or Congress should be so fortunate as to be able to suggest a solution in the sense as popularly demanded, you would establish a claim upon the gratitude of all mankind.

But it is hardly reasonable to expect that your committee, during the session of Congress, and occupied, as you must be, with so much other important work, can ac-

comply with that which the united labors of the best minds of many nations have been unable to accomplish in the last thirty years. It is not to be expected that your committee, without any previous knowledge of the subject (and I suppose that many members have not heretofore made any special study of it), would be prepared, upon so short an investigation, to recommend effective legislation upon a problem that is as intricate as it is important, and which certainly should not be dealt with lightly or superficially.

In the short time that I am allowed to occupy your attention, I shall only attempt to explain the general features of the problem and its great complications and difficulties, simply with the view of demonstrating that the subject is entirely too large to be dealt with by your committee during the short session of Congress; and the only recommendation I propose to make, which I shall sustain by my argument, is, that your committee continue its investigation after the session of Congress, or that a special committee be appointed for that purpose, or a permanent commission, empowered to thoroughly investigate the subject, and report to Congress the proper measures to be adopted, if any, to control the railroads of this country in the interest of the people.

I propose to show that the reason why the railroad problem has not yet been solved in the sense that popular sentiment demands, either in this or any other country, notwithstanding that continued efforts have been made for that purpose, is because many of the demands made upon the railroads by the public are so contradictory in their nature that the compliance with one would necessarily exclude compliance with others; and yet the railroads are expected to satisfy all claims and to accomplish the impossible.

The evils of the railroad problem, for which the public demand a remedy, may be classified under three heads:

First. Those that are purely of an imaginary character; these complaints arise from a want of knowledge of the facts, or of all the facts, in the case, together with a want of proper conception of what is just and unjust; each person determining this question simply with a view to his own personal interest, always considering that only to be just by which he is pecuniarily benefited.

Second. Evils beyond the control of the railroad managers, but for which the railroads are held responsible, because the people fail to discriminate between the practicable and the impracticable in the management of railroads. There are many things connected with the affairs of life that it may be desirable to attain, but which it is impossible to achieve in accordance with theoretical requirements.

Third. The evils which really exist, and for which remedies can and should be provided, although this may be exceedingly difficult.

The first two classes of evils give rise to the majority of complaints. The last class is exceedingly small compared with the two first. For this reason I recommend that before Congress shall essay any legislation upon the railroad problem, a thorough understanding of it should be had, because such an understanding alone would suffice to remedy the numerous evils composing the first and second classes, which have their origin simply in a want of sufficient knowledge of the subject—a knowledge which is also necessary for the removal of the real and third class of evils, the nature of which, as well as their causes and origin, must first be known, before proper means for their remedy can be devised.

In starting upon this inquiry, it is necessary first to clearly define the object you have in view in legislating upon this subject. What do you wish to accomplish? Are there before your committee any specific complaints against the railroad management of the inter-State commerce which you are called upon to remedy, and what are these specific complaints? Or, is this legislation to be undertaken simply upon general rumor or upon the impression that prevails in the public mind that there is something wrong in the management of the railroads, and that something should be done to correct it?

I am not aware that there are specific charges before your committee, but if there are, I will be glad to consider them in detail, after I have explained the general principles involved in the transportation problem; for, after these are understood, it will be much easier to judge of and deal with any special complaints that may be before you.

MR. REAGAN. That is an inquiry that has been made several times here. Now we have had, during the last few years, resolutions from a number of State legislatures, directing their Senators and Representatives to insist on legislation of this description; we have had the resolutions of boards of trade and chambers of commerce—the Board of Trade and Transportation of New York, the Grain Receivers' Association of Chicago, petitions of manufacturers, petitions of agriculturists, the memorial of the National Grange, and of a number of State granges and subordinate granges throughout the country. In a word, I venture the statement that there have been two or three times as many petitions for this legislation as ever came to Congress before for any act of legislation.

MR. FINK. But have there been any specific complaints, or have they been merely general complaints?

Mr. REAGAN. Of course, people do not generally attempt, in memorials, to set forth particular bills of complaint; but the fact must be familiar to you, as it is to us, that there are innumerable complaints constantly being made through letters to the newspapers and organizations of different kinds.

Mr. HERR. Judge Reagan, I do not know anything about the filing of these petitions of which you speak, and I want to get some information upon the subject. I have had the impression that the complaints had fallen off largely within the past two years. Am I right about that?

Mr. REAGAN. You have stated that before, and yet the gentleman who was here representing the Chamber of Commerce of Dubuque recently, said that the complaints were, of late, greatly augmented. I have already stated to you, and I state again, that if you go to our files, or to the Record, you will find the evidence of the introduction of these petitions, both in the House and in the Senate, in great numbers all the time.

Mr. WASHBURN. I think I can state perhaps one reason for the existence of those petitions, which is this. Somebody, I don't know who, but some power, has caused such petitions to be drawn and distributed broadcast over the country, and people, in many instances, have signed them without the slightest idea of what they were doing. Those petitions have been put in public places, such as boards of trade, and other places of that character, and many people have signed them on the general idea that there must be something wrong because somebody had taken the trouble to get up a petition stating that something was wrong.

Mr. HERR. I know that in my own State the feeling on this subject has entirely changed.

Mr. REAGAN. Well, in that you do not agree with all your colleagues, nor with your people, by a great deal. I may state the further fact that every new State constitution that has been formed for years past has undertaken to deal with this subject by the authority of the people, and exercising their sovereign power. Pennsylvania, Illinois, Missouri, Arkansas, California, Georgia, all have done it, and the list might be extended.

The CHAIRMAN. I understood Mr. Fink to say that if there were any specific complaints that any member of the committee desired to bring to his attention he would endeavor to answer them after he had finished reading the remarks which he has prepared.

Mr. REAGAN. Yes; and in reference to that I want to make one more specific statement which he may answer if he will. It is that in New York, where he lives, they had an investigation last year by a legislative committee which published these five volumes that we have here now, filled with complaints of the terrible actions of the railroads there. Let him answer what is reported by a committee of the legislature of his own State.

Mr. FINK. After I get through with my prepared remarks I think I shall be able to explain those charges in a very short time indeed. I would like to take up those charges and analyze them and show you that most of them are unfounded, and that so far as they have any foundation at all, are not within the power of the railroads to remedy. It is the fashion to hold the railroads responsible for everything nowadays, and I am not at all surprised that those boards of trade have come here and complained of the railroads, because they evidently represent a class interest that would like nothing better than to get control of the railroads and reduce their earnings so as to increase their own. The producers do not come before you and complain; the consumers do not come before you and complain; but the merchant, who wishes to cut down the railroads to the lowest point of compensation in order that he may fill his own pockets, comes before you and represents himself as "the people" and makes his complaints, and, under the delusion that he does represent the people, the country has been entirely misled. These, however, are points that I shall be glad to deal with later.

Mr. REAGAN. I have not my correspondence here, but it embraces correspondence running through several years, with men in every State in this Union—business men, merchants, agriculturists, every class that has to do with the railroads—and I am satisfied that I could produce a volume of specific complaints taken from that source alone.

Mr. FINK. The question is not whether you can produce a million complaints; the question is whether those complaints are well founded, and that is the subject that I propose now to discuss before this committee.

Mr. REAGAN. I do not undertake at this time to say anything about that except that the complaints are made.

At the suggestion of the chairman, Mr. Fink proceeded with his written speech, as follows:

The first question to be considered is: What are the just demands of the people with which the railroads are expected to comply? The railroads were constructed for the purpose of furnishing roadways, over which their owners were to carry on the

business of transportation, that is to say, the business of a common carrier, and they ought, therefore, to comply with the requirements which are made upon common carriers.

The common law clearly defines the duty of common carriers, and the definition is so simple that it leaves no room for misunderstanding, viz :

First. These railroad companies, acting as common carriers, are to perform services for the people at a reasonable cost.

Second. The charges shall be just and equitable.

If the railroads comply with these requirements, and confine themselves strictly to the business of common carriers, they do all that the people can reasonably demand of them. No additional legislation or interference on the part of Congress or State legislatures would be justified in that case.

The questions, therefore, that present themselves for investigation by Congress, are: Have the railroad companies, as far as the interstate commerce is concerned, complied with these requirements? If not, in what respect have they failed, and what is the reason for this failure? Is it willful neglect of their duties, or is it due to causes beyond the control of the individual railroad companies? If willful neglect, the common law should be sufficient to enforce compliance. But if these evils arise from causes beyond their control, and if the common law is not sufficient to protect the people, then new methods should be adopted which will accomplish that purpose.

After it has been ascertained that a plan can be devised which can be carried out by legislative action, then the question arises whether Congress has the legal power to enforce it. There are a great many practical affairs of life which cannot be controlled directly by legislation. Should it appear that railroad management is one of them, the question of legislative jurisdiction need not be discussed at all.

I shall, therefore, first, examine the subject from the commercial and practical standpoint, and this under two heads:

First. Have the railroad companies of this country performed transportation services for the people at reasonable cost?

Second. Have their charges been justly and equitably assessed upon the people?

Judging from the bills that are under consideration, it seems to be taken for granted by their authors that the railroad companies have failed to comply with the requirements of the law. These bills have for their object:

First. To control and limit railroad transportation charges. Bill No. 3563, introduced by Mr. Berry, provides for a limitation of the charges to be made for carrying passengers; and bill No. 1433, introduced by Mr. Beltzhoover, provides for the appointment of nine commissioners, who shall have the power to determine the maximum charges for transportation of freight.

Second. To prevent unjust discriminations. The "Reagan bill" and others have that object in view.

I will first consider the question whether the railroad charges are reasonable. This question admits of a definite answer, based upon the past record of the history of railroad management. I propose to show that the complaints which are so frequently heard, that the railroad companies are great monopolies and extortioners, come under that class which I have designated as "imaginary complaints." They have no justification in fact.

The people have generally the most extravagant notions about railroad profits. Because the earnings of many roads amount to millions, and the aggregate earnings of all roads to several hundred millions of dollars per annum, the impression has been created in the public mind that corporations which handle so much money must necessarily make immense profits, and be immensely rich; and this feature in railroad transactions is often used by demagogues to excite the envy of the ignorant and of the poorer classes.

In case one of these corporations be fortunate enough to earn more than legal interest upon the capital invested, that corporation is made the object of attack. Some people of New York are constantly attacking the New York Central Railroad, because it is a dividend-paying road, yet they never mention the Erie, which has not been a profitable investment to its stockholders; nor do they speak of the hundreds of other roads which have gone into bankruptcy, and whose stockholders have lost their all. These people propose to cut down the profits of the successful roads, but I have never heard of a single instance in which they have offered assistance to bankrupt railroads; not even sympathy is expressed for them. The impression is thus created that all the railroads are great money-making institutions, possessed of great wealth, when it is more frequently the case that they have nothing but a great debt.

I simply make these remarks to account for the extraordinary delusion that exists in the minds of a great number of people that the railroad companies of this country have charged more than reasonable rates for their services, when the fact is that they, referring to the whole system of roads, have never been paid full compensation for their services—they have for years performed transportation services for the people of this country at much less than cost.

About a year ago, it was thought expedient, by some parties in New York, to establish what is called the "Anti-Monopoly League." A meeting was held in Cooper Institute, in the city of New York, for the organization of the league. A band of music was provided as an attraction to induce the people to join in the movement; and not only that, but one of the foremost lawyers of the country, a man of national reputation, was employed to address the meeting. As he mounted the rostrum—so we were afterwards informed—one of the managers of the meeting placed in his hands an estimate of the enormous extortions made by railroad companies, from which the people are supposed to be suffering. These estimates were presented to the meeting, and showed that the sum of money extorted by certain trunk lines amounted, annually, to nine hundred millions of dollars.

The published statistics, which are accessible to all inquirers, and with which all intelligent men wishing to speak publicly upon the subject should be familiar, show that the total amount of money paid in 1880 by the people of the United States for the transportation of freight over 94,000 miles of road, was four hundred and sixty-seven millions of dollars, being only about one-half of the amount of the estimated unjust extortion, and that, taking in the earnings from the passenger traffic, the total gross earnings of the railroad companies for freight and passenger service were six hundred and fifteen millions of dollars. Of these gross earnings, there were paid by the companies, for operating expenses, three hundred and sixty millions, leaving two hundred and fifty-five millions for the payment of interest upon an investment of five thousand millions of dollars, or five per cent. on the investment; and this was during the most prosperous year in the railroad record. The stockholders received about three per cent.; the remainder was paid to the bondholders or used to extinguish indebtedness. The statements that the railroad companies had extorted nine hundred millions of dollars out of the total earnings of six hundred and fifteen millions, were heralded all over the country through the newspapers; and I have no doubt they were sincerely believed by many people who knew no better, and that they produced the desired effect.

The speaker, who presented these estimates at the first anti-monopoly league meeting, said that he felt the blush of shame coming to his face when he thought how patiently the people had stood such extortion, and how little effort had been made to protect them against such enormous robberies!

Now, gentlemen, it is such statements as these, emanating from such sources, and promulgated for the purpose of inaugurating anti-monopoly leagues, that bring to you the clamor for "legislative protection." What better protection can you give to the people than to expose the enormity of these falsehoods, by a full and thorough investigation of the subject, and by an official correction, so that the people may know the facts, and not attempt, by ill-advised legislation, to cure imaginary evils?

I have stated that the statistics for 1880 show that the railroads earned five per cent. on the capital invested. In former years they did not earn so much. There are some people who are extravagant enough to estimate that the capitalization of the railroads is double the real cost, and who maintain for this reason that the percentage of interest cannot be used as a criterion of the actual profits made by railroad companies. This is another of those reckless statements for which there is no foundation in fact. Its absurdity is apparent from the fact that the present capitalization of the railroads of the United States does not exceed \$58,000 per mile of road. I venture to say that it would be impossible to reproduce at this time the railroad property of this country at so small a cost. We hear a great deal said about fictitious capital injected by the watering of stock, and about construction companies, &c., but we never hear a word, in the popular discussion of railroad topics, about bankrupt roads, the stockholders of which have lost every cent invested. In the course of the last six years more than 20,000 miles of railroad property, costing fourteen hundred millions of dollars, have gone into bankruptcy. The stock in these companies amounts to nearly one-half of the total investment. About seven hundred millions have therefore been lost; or if this investment possesses any value, it is only in the future. It may be said that these losses are incurred by the building of many unnecessary roads; that the stockholders should not have built them. This may be true so far as the stockholders are concerned, but are any of the railroads of this country unnecessary? Have not the people along these lines of roads been immensely benefited by their construction at the expense of the stockholders? Are there any people who would be willing to have these bankrupt railroads taken up and removed? The people received the benefit of these investments if the stockholders did not. The investments have produced most excellent results, for which the people who used these roads could afford to pay, although they did not. I have no doubt that the reductions in the capitalization on account of bankruptcies have been much greater than the increase due to the watering of stock, even supposing that all the watered stock represented fictitious capital, and not the betterments and improvements made in the roads and paid for out of deferred dividends.

A few moments' reflection will show that \$58,000 per mile is not an extravagant cost.

The construction of a railroad through a prairie, where it is only necessary to throw up the earth to form ditches on each side of the road and lay down the cross-ties and iron, can hardly be effected for less than \$15,000 per mile. The iron superstructure and cross-ties alone cost about \$10,000 per mile. Roads built through easy, rolling country seldom cost less than \$25,000 per mile. Roads on which are tunnels, deep cuttings and high embankments, cost from \$25,000 to \$300,000 per mile. Some miles of road cost even more; for example the road crossing the Ohio River at Louisville, a mile long, cost two millions of dollars, while one mile of road crossing the Mississippi River at St. Louis cost fourteen millions. The Hoosac Tunnel cost about three millions per mile. I am now speaking merely of the cost of the roadway, which is by no means the whole expense of railroad construction.

The average cost of the rolling stock upon the roads of the United States is about \$6,000 per mile; and water stations, machine shops, depot buildings, depot grounds, and extensive terminal facilities, make up no small proportion of the cost of railroads. The interest to be paid on the capital invested, during the period of construction of the road, and before its earning capacity commences, alone amounts frequently to from \$4,000 to \$8,000 per mile, not to speak of the loss generally incurred during the first years after the opening of the road. Very few new roads in this country pay any interest on the investment at the beginning; and at that stage the roads are really but half finished, and whatever net earnings there are are generally used for the completion of the work. Another legitimate item in the cost of roads is the discount paid upon bonds. Bonds have been negotiated in this country at from fifty per cent. up to their par value, according to the character of the enterprise, and the probable risks assumed. It must be supposed that no one was willing to furnish money on better terms, though all the people of this country, including those who now complain of the railroads, had a chance to do so. On roads whose cash cost is \$40,000 per mile, and \$20,000 is raised in bonds, and the bonds sold at a discount of twenty per cent., the cost per mile for discount alone is \$5,000.

When all these perfectly legitimate expenses are taken into consideration, the conclusion must be reached that a capitalization of \$58,000 per mile is not excessive, and that an interest of five per cent. upon that capital, of which only three per cent. is paid to the stockholders, who assume the whole risk in these enterprises, while the bondholders drawing a higher interest are secured under the mortgages, constitutes by no means an excessive return on the capital.

But suppose, even, that the present capitalization as represented in the books of the companies were twice as much as it ought to be, and that the railroad property of the country had yielded six per cent. to the stockholders instead of three per cent., would anybody maintain that such an interest upon such an investment, with all its uncertainties and risks, was unreasonable? And would the people of the United States rather do away with this whole railroad system than pay so small and so reasonable a compensation to the people whose capital created this great railroad system? There are nearly as many miles of railroad in this country as in the rest of the world combined, and it is this vast railroad system which has made this country what it is—the most prosperous and rapidly growing country in the world.

I would not hesitate to submit the question in this form to the people of the United States, without the least fear that they would express themselves dissatisfied with American railroad enterprise and management.

To show further that people have good reason to be satisfied with the management of railroads, it may be well to compare the cost of constructing roads in this with that in other countries.

The cost per mile of road has been:

In Great Britain.....	\$200,000
In France.....	188,000
In Russia.....	135,000
In Austria.....	109,000
In Germany.....	105,000
In Italy.....	100,000
In the United States.....	58,000

Mr. HERR. Is that the actual cash cost?

Mr. FINK. These are the amounts at which the roads are capitalized, and as they do not "water" stock there as we do here, it must be the actual cash cost.

Mr. WASHBURN. Does that include the rolling stock?

Mr. FINK. Yes, it includes everything.

Mr. REAGAN. Does not the greater cost of railroad construction in Europe result largely from the cost of securing the right of way through gardens, houses, and valuable lands in those densely populated countries?

Mr. FINK. I think that forms but a small portion of the additional cost. In this country the right of way costs probably \$1,000 a mile, and I do not suppose that in Europe it would cost more than \$2,000 or \$3,000 a mile. In some places in England

the right of way would be, of course, very expensive, and that probably accounts for a portion of the greater cost of railroad construction in England, but I think the difference between the cost in Europe generally and the cost in this country can be explained in other ways. The railroad structures in Europe are much more expensive than ours, and then there has undoubtedly been a great deal of money spent unnecessarily as we would consider it here.

MR. REAGAN. I asked that question because some of the public writers upon this subject say that that is one element of the increased cost of railroad construction in Europe.

MR. FINK. Of course the right of way costs more in Europe than it does here, but after all I think that constitutes only comparatively a small portion of the whole cost of railroad construction. I do not think it can cost more than \$2,000 or \$3,000 a mile at the utmost.

The comparison is the more favorable to American enterprise, when you consider that labor and material used in the construction of railroads in Europe are much cheaper, at least thirty per cent., than in this country. The railroad companies of the United States are now obliged by the authority of Congress to pay a tax of \$27 per ton upon steel rails, while English and Continental railroad constructors are able to buy these rails at a cost less than the mere duty imposed upon American railroads. This alone adds \$2,700 to the cost per mile of road, which would offset any increased cost of right of way.

The statements I make are all matters of record, and they should be thoroughly investigated by your committee, in order that it may satisfy itself and Congress of the fact that the compensation received by the railroad companies of this country is not only not excessive, but is less than the cost of the service rendered by them.

To further prove that the charges made by American railroads are reasonable, let us look at the actual cost at which the services of the railroad companies are rendered to the people. Upon the grain moved to the seaboard, the railroad companies east of Chicago charged, in the year 1880, when the rates were higher than in the previous years, 0.6 cent per ton per mile. To assist in forming a clearer conception of what that means, and to illustrate the extreme cheapness of the transportation charges, assuming the distance from the Capitol to the White House to be a mile, which I suppose is nearly the correct distance, then the railroad companies carry, at the rates named, ten barrels of flour, constituting a ton, from the Capitol to the White House, for $\frac{6}{10}$ cent, or seventeen barrels for one cent. (Last summer, during the war of rates, that service was performed at the rate of $\frac{1}{30}$ part of a cent, or fifty barrels for one cent.) There are moved, annually, 7,000,000 tons of the products of the West to the seaboard at these rates. Yet there are people in this country who complain of the excessive transportation charges on interstate commerce, and they think it necessary that Congress should pass a law still farther limiting these charges!

Mr. Atkinson, in his admirable article upon the "Railroad and the Farmer," published in the Journal of the Agricultural Association, computes that a laborer in New England can pay the transportation charges upon all the provisions from Chicago that he consumes in a year, by one day's labor. Still, you read in the newspapers the harangues made by the leaders of anti-monopoly leagues, in which these laborers are told of the unjust exactions and of the enormous taxes imposed upon them by uncontrollable railroad monopolies!

In the same article Mr. Atkinson shows that the reductions in railroad charges which took place from 1873 to 1879 were equal to the reduction of the public debt during the same period. This statement is based upon the estimates furnished by Henry V. Poor, in the Railroad Manual for 1880, in which Mr. Poor says that, had the rates of 1873 been continuously charged to 1879, the additional sum collected by the railroads would have amounted to 922,000,000 of dollars more than they did collect, and that it is this sum which has been gained by the public in the operation of the railroads alone during that period of time. "In no other branch of commerce," Mr. Poor adds, "can anything like this saving be shown. It is the result of intelligence, skill, and ingenuity, left free to work out the best possible results, unhampered by other legislation than that of their own officers composing a legislature in constant session."

A comparison with railroad charges the results of railroad management in other countries must reflect the greatest credit upon the projectors, builders, and managers of American railroads, and upon the American people. In France, where the government regulates the railroads—or tries to regulate them—from the time of their very inception, the average cost of moving a ton of freight per mile, in the last year, was 1.63 cents; while in the State of New York it was 0.9 of a cent per ton per mile. If the same charges had been made in the State of New York as in France, the New York railroads would have collected 60,000,000 dollars more than at present. In Belgium, a country in which the railroads should be operated much cheaper than here, the average charge for moving a ton of freight, per mile, is 1.5 cents.

I do not wish to weary your committee with statistics that are accessible to you whenever you desire to inquire further into these matters. I have said enough to es-

tablish beyond controversy the fact that the American people are better served as regards cheapness of railroad transportation than any other nation in the world, and that those who charge that the American railroads are extortionists, are either utterly ignorant of the facts, or are guilty of intentional misrepresentation.

No legislation is needed, either by Congress or by the States, for the protection of the American people against the extortions of railroad companies. The conditions under which the railroad companies have to carry on their business and regulate their charges is protection enough; but if in some instances this should not be the case the common law is quite sufficient to enforce reasonable rates.

For these reasons the bills, No. 3,563, and No. 1,433, should not be recommended by your committee to the House, to be enacted into laws.

I propose now to consider the second demand which is made upon the railroad companies as common carriers, viz, that the transportation charges shall be just and equitable, which means that they shall be assessed upon the people as nearly as practicable in accordance with the value of the service rendered.

This condition, I am free to say, is not always complied with, and many of the complaints made by the people on this account are well founded; but, at the same time, I propose to make clear the fact that this is not always the fault of the railroads, but is more often due to the nature of the transportation business, and to the peculiar conditions under which it has to be conducted, and over which the railroad companies, each acting for itself, have no control.

Several bills are under your consideration, having for their object the prevention of unjust discrimination; if those bills would accomplish that purpose they should be enacted into laws. Would these laws accomplish their intended purpose? This is the question before your committee, and in endeavoring to answer it we enter upon the most intricate part of the railroad problem.

The "Reagan bill" demands that there shall be no more unjust discrimination. All parties, including even the railroad companies, agree upon this as the correct guiding principle. The difficulty is to give practical effect to this principle; and the first obstacle that we encounter in our efforts to do so, is, to know exactly what is unjust discrimination. There is a great difference of opinion upon this subject, as it might be expected there would be. Each person advocates as just, the application of that principle which is best suited to his interests, and wants it laid down as the general rule for the management of railroads.

The present controversy between the three seaboard cities, New York, Philadelphia, and Baltimore, as regards the relative rates that should be charged by the railroad companies to these cities from western points, affords another good illustration of the truth of the above assertion, and is only one of the many cases that can be cited of the contradictory demands made upon the railroad companies, and of the impossibility of compliance.

The people of Baltimore and Philadelphia claim that the rates from Chicago and other points in the West to these cities shall be made upon a "*mileage basis*"; that is to say, the shorter the distance the lower the rate; the distance from common points in the West to Philadelphia and Baltimore being shorter than to New York, the application of the mileage basis would secure to Baltimore and Philadelphia great advantages over New York. Hence their advocacy of this principle.

The people of New York consider as correct the principle that railroad tariffs should be based upon the "*cost of service*." This means that the railroad companies may charge what it costs them to do the work, with a reasonable percentage upon the investment; it is generally conceded from six to ten per cent. on the capital would be a fair interest. The advocacy of this principle is based upon the presumption that the New York Central Railroad can be operated more cheaply than any other, although it is longer, and that freight can be carried to New York at less cost from the same points in the West than it can be carried to Philadelphia and Baltimore. Hence, that principle which gives to New York the advantage over the other cities is, to New York people, the correct principle; the advantages in point of distance which Baltimore and Philadelphia claim are not for a moment to be considered.

The doctrine that the principle of cost forms the proper foundation for railroad tariffs is advocated with great spirit by the board of trade and transportation and the chamber of commerce, as well as by the anti-monopoly league. In fact, the anti-monopoly league was specially organized for the purpose of carrying this doctrine into effect. To those who are acquainted with the facts it is rather amusing to see how self-interest perverts judgment. The railroad companies would be exceedingly glad if they could receive full cost for their services. I have already shown that they never have received the full cost for their services. But this rule, laid down by the gentlemen of New York who appeared before your committee, is, of course, only to apply in the case when it works in their favor, when a railroad is supposed to earn more money than is considered to be the exact cost, as in the case of the New York Central Railroad. They have no idea of making up the losses of those roads where the compensation received is less than "cost of service." Neither is the rule to apply

when it can be shown, as it can, that according to the "cost principle" Baltimore and Philadelphia would be entitled to lower rates than New York. In short, this principle is good only so long as it works in favor of its advocates. Hence, as soon as it fails to operate favorably, some other principle must be resorted to. And so we find in this case that the same parties who advocate the cost principle also contend that cost, or distance, which really means cost, at least in this case, should have nothing to do with the making of railroad tariffs, and that notwithstanding Baltimore and Philadelphia are nearer to the Western market, and freight can be carried to those cities cheaper than to New York, the transportation rates must be made the same to all these cities; if any differences are to be allowed, they must be made in favor of New York.

Now, how is it possible for the railroad companies to comply with all these demands, even if they were united among themselves, which is far from being the case? The contradictory nature of these claims is further shown by the fact that the same parties who ask you to pass laws to stop unjust discriminations, also advocate that the New York roads should continue the war of rates, which is the very source of unjust discrimination, until the advantages which are claimed for New York have thereby been secured.

If the millers at Rochester have to pay higher rates from Rochester to New York than the millers at Chicago and Milwaukee, it is because the railroads are at war instead of co-operating with each other for the maintenance of just and equitable tariffs.

Yet these people ask for war to gain their object—that which they conceive to be right; and when there is war, with all its injurious consequences, they complain that they cannot enjoy all the blessings of peace. Of course all these absurd contradictory demands arise from a want of a full understanding of a complicated subject, and from the natural tendency of the human mind to be guided by motives of self-interest.

I am free to admit that the railroads are unable to satisfy claims of this nature. The gentlemen from New York, who came before your committee and presented their grievances, suggested no practical means for the remedy of these difficulties. They are willing to leave the settlement of the whole question to you. I hope you will be more successful than the railroad companies have been, in satisfying all their contradictory demands. I am certain, however, that the measures which are now under your consideration are utterly inadequate to cope with this intricate and complicated problem.

I have examined in vain the "Reagan bill" and the others having similar import, to see whether they provide for practical measures that would be likely to prevent unjust discriminations, in the hope that the railroad companies might be assisted in their efforts to deal justly with the people, which they have every desire to do. But these bills are entirely silent upon such important questions as those that have arisen between the trunk lines, and between the commercial communities. No principles are established, no means are provided for the settlement of those difficulties. No attempt is made to get at the root of the evil, and to provide for an intelligent and proper settlement of questions of this nature. Therefore, the bill, if enacted into a law, would leave the railroad question just where it now stands; it only deals with surface indications, and simply demands that there shall be no unjust discriminations. It proposes that which is desirable, but fails to provide for practical means by which the desirable end can be realized.

I beg to make part of this argument a report which I have made upon the question at issue between the seaboard cities and between the trunk roads, merely to show the great complications of such question, which lead to railroad wars and unjust discriminations, and for which the "Reagan bill" provides no solution.

Legislation of the nature proposed will only encumber the statute books; but it is useless for any other purpose; worse than useless, because it adds to the already great complications of this problem.

Only in two instances does the "Reagan bill" endeavor to clearly define what is meant by unjust discrimination. I refer to that provision of the bill according to which the railroads must perform like service for like charges; *i. e.*, they must carry the same quantity and class of freight between the same points at the same rate.

Now, as a general rule, this principle is perfectly just, and should be applied in many cases, but in as many other cases it would work the greatest mischief, and an injustice to the best interests of the people. It would prevent that competition between the railroads and between the markets of the country that is thought so necessary and desirable, and is considered the very life of trade and commerce.

I will explain one case, which will illustrate thousands of others, that occur in the daily practice of railroad management.

Only a few days ago I received a communication from a firm in New York, largely engaged in the stove and cooperage business, representing that they are making efforts to extend their business to Europe, and to place these products in the English markets in competition with those now brought to England from Norway. This firm applies to the railroad companies for lower transportation rates than are at present charged upon those articles when carried to New York for domestic consumption. The present

rates to New York are perfectly satisfactory to them, and to the trade generally, as they ought to be, being but six-tenths of a cent per ton per mile—not much more than the actual cash cost of the service—but it is alleged that without further reduction it would be impossible to compete in the English market with the Norwegian products.

In order to encourage industry and commerce, and enable the people of America to enter into competition in foreign markets, the railroad companies might be perfectly willing to carry such freight destined for export at still lower rates, or even at the net cost, without profit. They frequently do so to meet home competition in distant markets, or to aid in the development of the country. But it would be impossible for the railroad companies to carry the whole of their business at such low rates, or at the mere cash cost, leaving nothing for profit or interest on capital invested. Under the "Reagan bill," which Congress is called upon to make the law of the land, the railroad companies are to be prohibited from exercising any discretion in cases of this kind; they are to charge as much for the export as for the domestic business—for like service the same rates—thereby prohibiting the railroads from giving to the commerce of this country that aid which otherwise they would be able to offer, and thus preventing the building up of new industries that might result to the great advantage of the people of the country.

Mr. REAGAN. If it is a shipment abroad then it comes under the operation of the bill and is not to be classed as local freight.

Mr. FINK. I understood from your explanation yesterday that the bill was designed to operate in this way: You would establish, for instance, a rate for staves from Buffalo to New York, and that rate would be the rate for every man who shipped staves over that road, no matter where the property came from or where it went. Am I correct in that?

Mr. REAGAN. No. If it is shipped from New York to a foreign country it becomes interstate commerce and is not controlled by State rates. If it starts and ends in New York, then it is subject only to the law of New York on that subject; but if it starts in New York and ends in a foreign country, or if it starts in a foreign country or in another State and ends in New York, then it comes under the operation of this bill.

Mr. FINK. Suppose staves are shipped from Chicago to New York, passing over the Erie Railway, that road has to charge a certain rate for transporting that property, no matter whether the property comes from Chicago, Indianapolis, or any other point, and that is to be the rate for all the staves that pass over that road. Is not that the idea?

Mr. REAGAN. What I have said all the time is that, whenever the freight starts in one State and goes to another State or to a foreign country, or the reverse, no matter how many roads it passes over, or whether it is transported partly by land and partly by water, it comes under the operation of this bill.

Mr. FINK. I understand that, but that is not the point I make.

Mr. REAGAN. I understood you to make the point that this freight which you desired to send abroad could not be shipped abroad, because it would come in competition with local freight.

Mr. FINK. No: that is not the point. I understand that you propose to make it obligatory on the Erie Railroad, when it carries staves at all from Buffalo to New York, to carry them for every man who comes along at the same rate, no matter where it comes from—the same quantity of the same kind of freight for the same price; and I say that under a law based upon that principle it would be utterly impossible for the railroads to exercise any discretion in making a lower rate on freight intended for export. Is not that a correct statement of the purpose of your bill?

Mr. REAGAN. I think so.

Mr. FINK. That is the point I make.

Now it is true that it costs just as much to transport these articles from Chicago to New York whether intended for domestic use or for export. It is exactly the same service, and hence, if the "Reagan bill" becomes a law, the application of the firm I have alluded to for aid in building up an export trade must be refused. I know that the author of the "Reagan bill" did not intend that this measure should have that effect; but he is not acquainted with the practical operation of railroads, with the questions that come up before railroad managers every day, which have to be dealt with upon commercial principles, and he therefore condemns as unjust discriminations acts that are justified by every consideration of public interest.

Wherein does the injustice consist if the railroad companies carry freight intended for export to New York at lower rates than if intended for domestic consumption, as long as the charges for the latter are reasonable? It is certainly not unjust to the people in the West to create for them a market for their products. It certainly is not unjust to the merchants of this country who derive some profit from this trade. It certainly is not unjust to the American people that the English people should contribute to the wealth of this country by the purchase of its products. It certainly is not

unjust to the railroad companies that they should increase their business, even at a small profit. It certainly is not unjust to the domestic consumer of the article in New York, who pays a higher price of transportation for it than the exporter; because, whether the railroad companies do or do not engage in the export business, the rates of transportation to the domestic consumer, reasonable as they are, remain unchanged. If the feelings of the domestic consumer are hurt because the exporter gets lower rates of transportation, he can console himself by the reflection that the foreign consumer has to pay the ocean freight in addition to the inland freight, making the total cost to him much higher than to the American consumer. To carry the same class of freight for the exporter for less compensation than for the domestic consumer, is therefore not unjust, because it is beneficial to all engaged in this transaction; it hurts no one—the only disadvantage is to the foreign competitors—in this case to the people in Norway. Is it the duty of Congress to protect foreign nations against American competition by the passage of such bills as the “Reagan bill”?

The case I have above cited is only one of thousands that daily occur in this and other countries; and it is because the railroad managers are acting in the interest of commerce—no doubt from motives of self-interest—and are adopting the practical and proper plan in the management of this property, that you hear so much complaint against them. Three-fourths of the complaints against railroads arise not from the fact that railroad companies make unjust discrimination, but that the people who find fault with the railroads have no clear conception of what really is just or unjust discrimination. They judge the case simply from the standpoint of individual interest, and from a surface view of it, without considering all the facts that have a bearing upon it.

I will mention one more instance to show the practical working of that provision of the “Reagan bill,” by which the railroads will be required under all circumstances to make the same charges for like services—a provision that would destroy competition between transportation lines, as well as between markets. In a train that leaves Buffalo for New York over the Erie Railroad, with thirty cars loaded with grain, there may not be two cars which pay to that road the same rate per unit of weight. The rates would be higher on a car-load of grain coming from Chicago than upon one coming from Cincinnati, because Cincinnati has shorter routes to New York; the Erie road being the longer line it must charge less per ton per mile, in order to compete with the shorter lines. To force the Erie road to charge the same rate on all freight, no matter where it comes from, would exclude it from competition at all points to which it forms the longest route. Under the “Reagan bill” the Erie road would be so excluded. At the same time, the New York Central and Pennsylvania Railroads, which are entirely located in one State, and which are not subject to the provisions of the “Reagan bill,” would carry the business which is to be taken away by an act of Congress from the Erie Railroad, thus creating the worst form of unjust discrimination between competing railroads, and prohibiting free competition.

It is true that an attempt was made to enforce the same rule embodied in the “Reagan bill” upon the New York Central Railroad. That road was to carry all freight of the same character and weight from Buffalo to New York at the same rate, and was also to be excluded from competition with its rivals. This proposed legislation was the result of a seven months’ investigation by a committee of the New York assembly into the abuses of railroad management, and was, no doubt, considered a panacea for all railroad evils. Fortunately, when the bill was presented to the legislature, that body had the good sense to refuse to pass it.

MR. REAGAN. The case that Mr. Blanchard made and that you have made depends upon your power to violate the law, and not to obey it.

MR. FINK. Is not the provision absolute in the bill?

MR. REAGAN. You argue upon the assumption that freight becomes State freight by going over a State road.

MR. FINK. No, I exclude all that from consideration. I am not supposing any violation of the law. I am taking the direct construction of your bill, and I say that it requires, as I understood you to admit awhile ago, that the same kind and amount of freight shall pay the same rate between the same points, no matter where it comes from or where it goes to. For example, the Erie Railway has a fixed rate for grain, say, 15 cents; the Lake Shore has another, say, 15 cents; that makes 30 cents; then the Chicago and Alton, running from Chicago to Saint Louis, has another, say, 10 cents; that makes 40 cents. Now, when the Erie railroad wants to get any business, say, from Indianapolis or Cincinnati, it must also charge 15 cents on that business, while the Pennsylvania road or the Baltimore and Ohio, which have the shortest lines, will have the lowest from Cincinnati, so that the Erie cannot compete with them at all at that point, because the system of road that runs on the longest line, having fixed rates established and being bound to adhere to them, must necessarily have a higher through rate than the shorter lines.

MR. REAGAN. You said awhile ago, if I understood your idea, that rates may be made for grain, for example, from any point from New Orleans to New York—

Mr. FINK [interrupting]. No grain comes from New Orleans. But take cotton.

Mr. REAGAN. Suppose a carload of freight to come over the Pennsylvania Railroad. If this bill were a law it would require that road to fix the rate over any of its terminal branches from one end to the other; each terminal branch would have its separate rate.

Mr. FINK. I understand the Pennsylvania road, for instance, would have a fixed rate from Pittsburgh to Philadelphia.

Mr. REAGAN. But that provision applies only to each road and its connections—the roads operated by it.

Mr. FINK. I understand it so. That is, every road in the country is to have a fixed rate for each class of business; is that the idea?

Mr. REAGAN. That is what the bill proposes.

Mr. FINK. I understand it so from your explanations made here. I confess I certainly did not understand it so before, because it never occurred to me that such an idea could be entertained seriously for a moment.

Mr. REAGAN. For example, if you want to bring freight from Saint Paul to New York, and if there is no existing road with continuous connections operated by it from Saint Paul to New York, then you will have to start that freight on a road with connections to Chicago, and the rate on that road from Saint Paul to Chicago would be fixed. Then at Chicago, if there was any road extending to New York, or having a continuous connection to New York, it would have to fix the rate for the rest of the way.

Mr. FINK. I understand. Let us consider now what would be the effect of any such plan as that of having the rate fixed upon each road. There are about fifty different combinations of roads between Chicago and the Eastern cities and about one hundred between Saint Louis and the East. The roads forming these combinations are of different lengths, and would have different rates so that there would be fifty different through rates out of Chicago and one hundred out of Saint Louis, and, of course, one of these rates must be the lowest, unless it should happen by accident that two or three roads fixed the same rates. The result would be, therefore, that instead of these hundred combinations participating, as they now do, in the freight business of Saint Louis, you would have one road to carry all the business until that road is filled up so that it could not carry any more, then the second lowest would come in and take the business until it filled up, and so on.

Mr. REAGAN. No, the roads would be free to compete just as they are now.

Mr. FINK. But, of course, no shipper would ship over any but the lowest line so long as it could take his business, and the sum of all the rates of the several links in a line or the through rates is thus fixed, and is different on each of the hundred routes.

Mr. REAGAN. But we do not, under this bill, propose to compare the rates on one road with the rates on any other road. As I understand your idea, it is that one road may charge less than the others, and, therefore, may get all the freight.

Mr. FINK. And that, as you propose to regulate the matter, one of the roads *must necessarily* have a lower rate than the others?

Mr. REAGAN. Your point is that one of the roads may fix a lower rate than the others.

Mr. FINK. No; my point is that you propose, in effect, to fix a lower rate for one road and higher rates for the other roads, while competition can be carried on only when the roads are free to make the same rates.

Mr. REAGAN. If this bill were a law it would still be true, as it is now, that the roads could make their own rates and might make competing rates if they chose.

Mr. FINK. No, I think not. The question of competition is entirely shut out under the law you propose.

Mr. REAGAN. How can that be?

Mr. FINK. Because, if a certain line of road had a rate five cents less than the other roads, of course nobody would ship by the others while he could ship at that lower rate.

Mr. REAGAN. That difficulty exists now; it is the same now.

Mr. FINK. No, it is not the same now, because, now, if one road cuts rates the others cut rates. And that shows the foolishness of this cutting of rates, because when one does it, the other must do it in order to get any business.

Mr. REAGAN. I have thought that one of the virtues of this bill was that it would prevent these wars of rates.

Mr. FINK. Yes, that undoubtedly was your intention.

Mr. REAGAN. If your point is that this bill allows competition between competing points—

Mr. FINK. Oh, no. My point is that it prohibits competition.

Mr. REAGAN. It does not. How does it? Each road regulates its own rate.

Mr. FINK. As I have said, there are some fifty combinations of roads between Chicago and seaboard cities, and one hundred combinations from Saint Louis, and the effect of this on those lines will be—

Mr. REAGAN. But I have just explained that this bill does not operate on a number of roads together, but only on each road separately.

Mr. FINK. No, it operates upon all the roads from Saint Louis to New York.

Mr. REAGAN. It does if they are all in one connection.

Mr. FINK. If they are all in one connection, and I say there are about a hundred combinations, formed by different roads.

Mr. REAGAN. Suppose the Baltimore and Ohio, or the Pennsylvania and the Erie have through connections which they control from Saint Louis to New York. Under this bill each road fixes its own rates for through freight, and all the bill provides is that no road shall charge for transportation over a portion of that line a higher rate than it charges between the terminal points, but the roads can compete precisely as they do now for all through freights.

Mr. FINK. I think I can convince you that you are wrong about that. Here [indicating a point upon paper] is New York, and here [indicating another] is Saint Louis, and between these two points you have, say, a hundred and fifty combinations of roads of different lengths. Now, you say to the Erie Railroad that it is to carry grain for a given rate (whatever rate may be fixed, say 15 cents a hundred), no matter where that grain comes from or where it goes to. Of course, the Atlantic and Great Western and all the other connecting roads have to carry it also at some fixed rate, whatever that rate may be. Each road has to fix its rate and then it must charge the same rate for the same kind of freight, no matter where the business comes from or where it goes to. Now, when you want to find out what is the rate from any one shipping point by the various routes, you must add together the fixed rates of each link in the route, and you will find that the total through rate from the same point will be different by each route.

Mr. REAGAN. I think I understand you.

Mr. FINK. Now, suppose one of these roads charges 35 cents and another 30, and another 27, of course all the freight will be shipped from Chicago and Saint Louis by the road with the lowest rate, and the other roads, although they have worked for years this business, will be excluded entirely from it until the road with the lowest rate is filled up so that it can take no more; then the next lowest will get the business, and so on.

Mr. REAGAN. You put a hypothetical case, but I will meet you on it. Here are three roads extending from Saint Louis to New York, each being operated by one company, fixing its own rates, and they are competing roads.

Mr. FINK. I beg your pardon, but there is where you are mistaken. They cannot fix their own rates, these roads are not operated by one company, each road in the line must fix its own rate, and the sum of all is the Saint Louis rate; determined by mere accident, not by any consideration of what the service is worth to the Saint Louis shipper; you will have fixed their rates for them.

Mr. REAGAN. I will come to your problem presently. I am now stating mine. Now, I say each of these three roads from Saint Louis to New York, if it is under the same management, fixes its own through rate. But you say that there may be independent and separate roads.

Mr. FINK. It does not or ought not to make any difference whether they are under the same management or not.

Mr. REAGAN. If the point is that each road is under a separate management—

Mr. FINK. That does not make any difference.

Mr. REAGAN. If that is so, then each road fixes its through rate from Saint Louis to New York, and fixes it high or low as it pleases.

Mr. FINK. If there was only one city in the country that would do. But after the roads have fixed their rates on the Chicago basis, the Saint Louis business comes in. The road from Saint Louis strikes this line, say, at Indianapolis, but you have already fixed for this intermediate road a certain proportion of the Indianapolis rate, and this business must go over this part of the road which is common to both through lines, at the same rate, wherever it may have come from or wherever it may be going to; hence it makes no difference whether they are separate roads or one.

Mr. REAGAN. If this intermediate road is a different corporation—

Mr. FINK. It is a different corporation. Now, when this Chicago business strikes the Pennsylvania road at Pittsburgh, then, the Chicago rate being fixed, they can charge only the proportional rate from Pittsburgh to this point [indicating], and when they want to get business from Saint Louis it is a question whether they can reach Saint Louis at all.

Mr. REAGAN. The terms of the bill are that for like service the railroads shall not charge more for a shorter than for a longer distance.

Mr. FINK. I do not have reference at all now to that feature of the bill in respect to the short and the long distance.

Mr. REAGAN. Then I must confess I do not understand you.

Mr. FINK. Well, let me illustrate my meaning farther. Here is Chicago, and here is New York, and here is the Erie Railroad, and here is Saint Louis. Now, the rate

is fixed from Chicago to New York at a certain figure, and the Erie Railroad has to take, say, 15 cents as its share of that through rate. That is the agreement among the roads themselves. Now, that being fixed as the share of the Erie road, on Chicago business then, I say, under your bill the Erie Railroad is obliged to charge 15 cents for the same quantity of the same kind of freight, no matter where it comes from or where it goes to. But away off here [indicating] is a distant point reached by certain lines of railroad or water routes, and a lower rate must be made to secure its business.

Mr. REAGAN. I do not understand it the way you do. I have understood that from each of these points the rate is fixed.

Mr. FINK. At present it is, and the same rate is made by all lines, but this would not be the case under your plan. Suppose this place [indicating] is 1,000 miles distant, and this [indicating] is 1,500 miles, and the rates now may be the same; in fact, the rate is sometimes less for the longer distance. Here, for instance, is Memphis, whose rates are established by the steamship lines, so that the Memphis rate is no higher, indeed it is lower, than the Chicago rate. Now, suppose the share of the Erie road of the through rate from Chicago is 15 cents; from Memphis it would necessarily be lower—

Mr. REAGAN. Are you supposing that this line is all under one management?

Mr. FINK. No; I am not at that point now.

Mr. REAGAN. Then you are talking about a different problem.

Mr. FINK. No. This freight comes to the Erie road at Buffalo, and, under your bill, they are obliged to charge 15 cents on the business that comes to them from Memphis, because that is the rate they have already fixed for such freight in the business that has come from Chicago. The distance here [indicating] is 1,000 miles, but you have the same law operating on these other roads that operates on the Erie, and they also have their rates fixed from which they cannot vary. Now, that makes a rate to Memphis which excludes the Erie, and all those connecting roads, from the Memphis business. And here is another road, the New York Central, with all its connections to Memphis, in the same condition; and the final result of your bill is, that the sum of the local rates established upon all these roads forms the through rate, and you have just as many through rates as you have lines, or combination of lines, and that all freight that cannot pay 15 cents per 100 to the Erie road must necessarily be excluded from it.

Mr. REAGAN. You are a railroad man and I am not, but I will explode that in a minute so that you will say yourself that it is exploded; if I do not I will give up the case. Here [indicating] is Saint Louis, and *here* is Memphis, and *there* is Chicago. Now, you want to compel the shippers from Chicago to pay, over *this* road, for the extra rate of compensation of *that* road.

Mr. FINK. No; I only want the Chicago shipper to pay for the service that he receives.

Mr. REAGAN. Then you want the Erie or any of these roads to carry freight for one part of the country cheaper than for another.

Mr. FINK. Yes.

Mr. REAGAN. And that is just what I do not want.

Mr. FINK. Well, if you had your way you would ruin all the railroads in the country, and ruin the country too.

Mr. REAGAN. Well, I should like to have a little "ruin" of that sort.

Mr. FINK. That is what you are proposing to bring about. Let me explain again. The present rule of the railroads is to fix the rates from Chicago and New Orleans and other points according to the competition they meet in those markets. So they fix a rate, for instance, from Memphis to New York, a distance of 1,300 miles, which is the same as the rate from Chicago to New York, a distance of only 1,000 miles, because Memphis has the advantage of Atlantic Ocean and Mississippi River transportation, and can get its business done that way so cheaply that if the railroads do not take it at that rate they must let it alone. Now, you want the railroads to let that Memphis business alone because it does not pay them a fixed rate. That is the principle of your bill, and I say that under that rule there would be little business done by the railroads in this country.

Mr. REAGAN. I have always met this question fairly and squarely, and I say now that if you mean to tolerate a condition of things like that which made the late railroad war, by letting the railroads go outside their legitimate business, and haul freight from certain points for less than cost, and then make the people of the rest of the country pay for it, that is just what I want to defeat.

Mr. FINK. That is what we want to defeat, but you cannot defeat it in this way. The underlying principle governing this part of the railroad business is generally overlooked in these discussions. It is that the railroad company is not merely a common carrier, but it is *also the owner of a roadway*, and it charges not only for the work of moving freight as a common carrier, but *also toll for the use of its roadway*. Now, in the United States it requires nearly 40 per cent. of the receipts to pay the toll on the roadway, that is the interest on the investment, and within that 40 per

cent. the railroads have great latitude in making their charges. The other 60 per cent. goes to pay the cost of operating the road; that is to say, of moving and handling the freight. In making competitive rates, therefore, the question is presented to the railroad manager whether he can reach a certain business at certain rates, and if he finds that he cannot get his 40 per cent. on that business he takes 20, or even 10, or he may carry that business for nothing if he chooses, and it frequently happens that railroads do carry certain freight without any profit. Now, this gives a wide latitude in railroad charges. A railroad can charge very much less than the 40 per cent. and yet keep within the cost of transportation, and that is what the roads do. This being the governing principle and the railroads being already built and having to pay interest on the investment, whenever they can pick up business in Memphis or New Orleans that pays them a little profit, or even only enough to cover the actual cost of transportation, they take that business. If it pays even five per cent. that is so much additional profit, though, of course, if they can get more they are very sure to get it.

MR. REAGAN. I recognize the propriety of that so far as the railroad companies can do such business without charging other people for the carriage of that freight.

MR. FINK. They do not charge other people for carrying that freight; they cannot charge more to other people than is reasonable.

MR. REAGAN. Then if you don't want other people to make up your losses upon this competitive through freight, there is nothing in my bill that can interfere with your business at all.

MR. FINK. You would disarrange the whole business of the country if it were brought under your bill. Isn't that interference enough? Your bill, if it should operate as you expect, would absolutely stop a large proportion of the traffic of the country. I did not understand the bill until I heard you explain it yesterday, because it never entered my mind until I heard your explanation here that such legislation could be seriously proposed.

MR. REAGAN. Would it stop the business to say that every road should carry the same kind of freight for the same price over its own line?

MR. FINK. Yes, it would stop the business, positively, positively! It would make the railroads almost useless. They could, of course, carry something, but they could not carry enough to make a living.

MR. REAGAN. I agree with you that if legitimate competition gives them this through freight they have a right to take it, but if competition goes to the point that they carry this through freight at a loss, and if that involves making other people pay for that loss by higher charges on freight from other points, then I do not want to allow any such competition.

MR. FINK. But the roads do not do that. The local tariffs are established upon certain principles that have no reference to the through rates—I will not say that exactly, because the local rates are influenced greatly by the through tariffs on every road—they are reduced by them. But you have to look upon railroads in this way. Here, for instance, is a railroad that runs from Chicago to New York, and alongside of it is the canal which compels the railroad to make a cheap rate. Then here is another railroad which runs from Chicago into the interior of the country to a certain point—we will say a local station on one of the leading roads running out of Chicago. There is a great deal of complaint about the difference in rates between local and through business. That railroad may charge as much for hauling a car-load from that station, fifty miles distant, as is charged from Chicago to New York. Now that is complained of loudly, but it is not a wrong in itself. The rates from Chicago to New York are fixed by the canal. The man who lives at this station fifty miles west of Chicago has no canal and is dependent entirely on the railroad for his transportation. That railroad was built for him and for others situated as he is; he gets more value out of it than anybody else does. A man who lives in Saint Louis is not dependent upon that road; it is of no use to him, he could do without it as he has other roads; besides, he has the Mississippi River; but the man who lives at this local station and who cannot ship in any other way is dependent upon it, and he must support the road in the first place because it is built for his accommodation and benefit. It follows, therefore, that the interest charges for building that road must be, and ought to be, greater to this man than to a shipper who merely makes a casual use of the road but is not dependent upon it. When you separate the total charge that the railway makes into the charge which it makes as a common carrier, and the charge for interest on the investment, you see it is perfectly proper that the man for whose exclusive benefit the road was built and is maintained shall pay a larger share of the interest on the investment than a man who lives a thousand miles away, and who, though he may occasionally use the road, has a dozen other ways to get his freight to market. The railroads have to rely in the first place upon the local business for their earnings and their maintenance, and the more so because they have to do the through business at so low a rate.

MR. REAGAN. I thoroughly agree with your view so far as it is confined to legiti-

mate competition, and I agree with your other proposition thus far: In framing the bill we recognized the fact that there were reasons why the longer haul should be cheaper than the short haul in proportion to the distance, so we fixed upon the rule that the long haul should have all the advantage that the distance gives it if the railroads should find it necessary to charge higher on the local freight; but we wanted to break up this practice of railroad managers—not the stockholder, but the managers—getting up a business at some point on the road, or the railroad companies themselves getting up a business at some point, and shutting off all competition by other parties, and also we wanted to deprive them of the power of ruining any individual or community for the benefit of another individual or community.

Mr. FINK. That is all very proper, and I shall be happy to assist you in any way I can in preventing such things.

Mr. WARD. In the case you put a while ago of the local station west of Chicago, is not the true question to be considered this: whether the shipper at that point is charged a reasonable or an unreasonable rate?

Mr. FINK. That is the whole question. And it is to be remembered, in considering that question, that that shipper gets the benefit of the competition in through rates, as soon as his freight reaches the nearest competing point, Chicago. Say that he pays 15 cents on his grain from his station fifty miles west to Chicago (I do not say that that is the actual figure on any road, but I suppose an extreme case); when that grain gets to Chicago he has to pay only 15 cents more to get it to New York; so that he gets the benefit of the through competition; while the man who lives only five or ten miles from Chicago, but who has no railroad, has to wagon his grain into the city at probably greater cost. Where these local railroads exist they must be sustained by the local business for which they have been built. They are not built for the through business, and they cannot be managed as if they were through lines parallel with water ways. But, nevertheless, the local shipper gets the benefit of these water-ways. If the rate from Chicago to New York is only 10 cents during a war of rates, the rate from the local point to New York is reduced to 25 cents, and yet the local shipper bitterly complains that roads carry so low from competing points; and he cannot have his local rate also reduced.

Mr. REAGAN. For the reasons I have stated, in providing for fixing the rate for one haul, we recognize the fact that as you approach the frontier or get into the more sparsely settled portions of the country the railroads cannot afford to carry freight at the same rates as in the more densely settled regions, so we determined to allow the trunk lines to fix the rates.

Mr. FINK. Yes; under your bill every man is allowed to fix his own rate, but he has to fix *some* rate, and he has to fix it with reference to some particular business, and he thereby excludes himself from every other business. Now, the rates are not really made by the railroad companies; they are made by conditions over which railroad managers have no control, as I illustrated by the case of Memphis, and the question presented to the railroad manager is not, "What rate do I wish to fix for this business?" But it is: "Can I carry it at the rate offered, and make one, two, or three per cent. on the capital invested?" That is the question he has to consider, and he may say in a particular case: "I will take it although the rate is too low; I do not care about having it pay me anything in the way of interest, because I want to build up other business."

Mr. REAGAN. If it is done in the way of legitimate competition that is one of the objects I have in view.

Mr. FINK. I know that the object you have in view is all right. We all agree on the object, but we differ very seriously as to the means of attaining that object.

Mr. WHITE. I understood you to say, Mr. Fink, that so far as you knew there was no considerable complaint made about interstate commerce. Now, if Judge Reagan's bill should become a law, would it, in your judgment, improve the condition of those complainants who are now suffering from unjust charges on way freights?

Mr. FINK. Not at all.

Mr. REAGAN. As to local State freights it could not affect them, because the bill does not apply to them.

Mr. FINK. No; the railroad companies would have a right to charge what they pleased for that kind of business, under this bill.

Mr. WHITE. The question I have asked was only preliminary to this one. Is it not the fact that nine-tenths of the complaints that come from shippers relate to matters which are properly subjects for State legislation.

Mr. FINK. Yes; they are matters of a local nature, but still they are affected by interstate legislation. The great complaint of all these people is, that local rates are too high in comparison with through rates.

Mr. WHITE. If this bill were to become a law would not its tendency be to make the rates on through freight higher, without lowering the rates on local freights?

Mr. FINK. I think it would make rates generally higher.

Mr. WHITE. And yet the complaints are mostly with regard to local matters which ought to be regulated by the State legislatures, if at all.

Mr. FINK. Yes; but the complaints about local rates are *comparative* only. The local rates might be perfectly satisfactory if it were not that the through rates are so low.

Mr. WHITE. But the object of this bill is to regulate commerce between the States. Now suppose we were to pass the bill and put these restrictions upon interstate commerce, would that, in your judgment, cheapen the rates?

Mr. FINK. No; it would have no effect upon them.

Mr. WHITE. But you think it would make the through rates higher?

Mr. FINK. I think so; by excluding a large part of the competitive business.

Mr. WHITE. And yet, as I have said, nine-tenths of these complaints of which we hear so much, are complaints of unjust discriminations in local charges, complaints which you think would not be made but for the fact that the through rates are so wonderfully low. Now would not the sufferers from these local discriminations do better by applying to their State legislatures instead of coming to Congress?

Mr. FINK. Of course Congress cannot remedy that difficulty. That is a question that I shall deal with further on.

Mr. WHITE. I do not understand that many complaints come from the great terminal points, Saint Louis, or Chicago, or New York.

Mr. FINK. O, no; they have no cause to complain; the railroads are the parties that have a right to complain; not the people.

Mr. WHITE. It is the people who live at the intermediate points in the State of New York, and the State of Pennsylvania, that complain.

Mr. REAGAN. Yet some time since, when the rates were raised from 10 cents to 40 cents from Chicago to New York, there was a good deal of complaint at Chicago.

Mr. FINK. Yes; but I did not hear a single complaint when the rates were reduced last year from 35 cents to 10 cents. These people always want the rates reduced, but they never want them raised. Now, when the rates are reduced to a ridiculously low point, of course they have to be raised sometime, and then the complaints begin to come in.

"The Reagan bill" contains another definition of unjust discrimination, which is equally as erroneous as the one I have just criticised. It prohibits charging more for short hauls than for long hauls. The principle that transportation charges for short hauls should be less than for long hauls, or at least no more, is an excellent one, and should be adopted in all cases where its violation would inflict injury upon the people. But there are a great many cases in which a violation of this rule would inflict no injury upon any one; but, on the contrary, would be beneficial to the people as well as to the railroad companies.

If this provision of the "Reagan bill" were carried out, it would exclude the railroad companies from carrying a large amount of traffic, it would prevent the proper development of the resources of the country, and would prevent that wholesome competition between transportation companies and commercial communities which should be encouraged and not prohibited.

Whenever the railroad companies charge less for hauling freight over long distances than over short distances it is always done for the purpose of meeting competition at distant points, from which they would exclude themselves by higher charges. Neither can they reduce the rates on the shorter haul, because they cannot afford to transact all of their business at the low rate forced upon them by competition at distant points.

I will illustrate this by a single case, which represents thousands of others that arise in the daily practice of railroad management. The railroad lines from New York to New Orleans carry freight in competition with the ocean steamships running from New York to the same point. The railroad charge on first-class freight is seventy-six cents per hundred pounds, and frequently only fifty cents, when steamship competition makes it necessary. This freight is carried through Atlanta. The rate from New York to that point on freight that stops in Atlanta is one dollar per hundred pounds, although the distance to Atlanta is only about sixty-four-hundredths of the distance to New Orleans. But it must be borne in mind that New Orleans has always enjoyed the advantages of cheap ocean carriage. As soon, however, as a railroad is built to New Orleans, through interior points, it is claimed that because railroads can and do carry freight through these points to the seaboard at rates to meet the competition with the ocean routes, they can and must carry freight as cheaply to interior points. This claim is to be sanctioned by the "Reagan bill" as just; and under the operation of that bill the railroads could not charge more from New York to Atlanta than to New Orleans.

In other words, the railroad companies are to provide, at their own expense, as cheap transportation to the persons living in the interior as is enjoyed by those who live on the sea-coast. This claim is based upon false reasoning, and upon an insufficient knowledge of facts. It is assumed that if railroad companies can carry freight over long distances for a certain compensation, they can certainly carry it over short

distances for the same compensation, or even lower, since it costs less to do the work. It is very difficult to make those who reason in this way understand that railroads must rely for support upon the people for whose special use they were built. Now, the railroads from New York to New Orleans were not built with the view of relying for their support upon the New Orleans business, because it was well known that that business was neither sufficient in amount nor profit to justify the building of the roads. The cities distant from the ocean, and which formerly had no transportation facilities, are chiefly benefited by the railroads. If it be the correct principle that people should be charged in proportion to the use they make of the roads, and according to the value which the service has for them, it is certainly just and proper that the people in the interior should pay more for railroad transportation services than those who have always had cheaper water transportation, and who could get along very well without any railroads. The business that the railroads transact to New Orleans is merely incidental; the rates are fixed by steamboat competition, and if there is any profit above the bare cost of doing this work, no matter how small that profit may be, the railroad companies are justified in transacting this business, even if it fails to pay a proportionate part of the interest upon the investment. Having already a roadway that has to be operated, having to pay interest on the investment, and having to incur the general expense of operating that roadway, whether the New Orleans business is transacted or not, a railroad company can afford to enter into competition with the steamship lines at a much lower compensation than that for which it could transact its whole business.

The "Reagan bill" considers this an unjust discrimination—in the case mentioned—against the people of Atlanta. Let us consider to whom it is unjust. Who suffers from it? The people of Atlanta do not, for the charges made to them are perfectly reasonable in themselves. They never had transportation services performed so cheaply until these railroads were built; in fact, Atlanta is a city that was created by the railroads, and from the very nature of its geographical location it cannot expect, under any circumstances, to be put upon the same footing—and this at the expense of the railroad companies—with the people who live on the seashore. Although freight is carried through Atlanta to New Orleans at lower rates than to Atlanta, this itself constitutes no injury to the people of Atlanta; because if the railroads did not carry it at these low rates the steamships would, and the facts as to the relative charges made to the cities in question would not be changed. If there be any unjust discrimination in these charges it would exist regardless of any act of which the railroads are guilty.

Should the "Reagan bill" become the law of the land, it would compel the railroad companies to withdraw from competition with the steamship lines to New Orleans; it would deprive the roads of some profit that they would endeavor to replace, if in their power, by charging higher rates to interior cities; it would deprive New Orleans of the advantages of railroad transportation and competition with the steamship lines, and would probably cause the steamship lines to increase their charges. These would be some of the results of your legislation upon the interstate commerce of this country. You would not remove the evils of unjust discrimination, but would deprive the people of the benefit of railroad competition, and the railroad companies of some revenue.

I am aware that the author of this bill did not intend it should have this effect. It is want of knowledge of the practical conduct of railroad operation and commercial affairs that leads him to formulate a law which must have the contrary effect to that which it was intended to have. I therefore urge upon your committee that the railroad transportation business should be fully understood in its practical and commercial bearings before legislation is attempted.

In my opinion, it is utterly impossible to formulate a law defining just and unjust discrimination. Any act is just in commercial transactions and in railroad management which does not result to the injury of one person at the expense of another. If it can be shown, as I believe it can, that nobody suffers from the fact that the railroads carry freight more cheaply over long than over short distances, the carriage of such freight is just and proper, and being also beneficial to the commerce of the country, it should rather commend itself to the favorable judgment of legislators than to be made an act of misdemeanor, punishable by fine, as the "Reagan bill" proposes.

The cases which I have cited are types of a thousand others that occur every day in the practical management of railroads in this country and other countries, which give rise to so many complaints for which there is no just cause, and therefore no remedy.

In England the people complain that freight is carried by the railroads from Liverpool to London at a lower rate than to interior points, the rates from Liverpool to London being made to meet the competition by ocean.

The people of France complain because the products of Africa, which can be sent to Belgium and Holland direct by ocean, are carried by rail through France from Marseilles to those countries at lower rates, on account of this competition, than the interior business is transported by the railroads.

The people of Germany complain because the grain of Hungary passes through Germany to England at lower rates than is charged to distribute domestic grain, these

through rates being made lower on account of the competition with other transportation routes.

The English investigation now in progress, brings out the complaint of the sugar refiners of London, who are obliged to pay as much for the transportation of sugar as the refiners at Greenock, although the distance from Greenock to common points of competition is twice as great as from London. The London refiners desire to exclude the latter from competing with them, and are in favor of tariffs constructed upon the "mileage basis."

The shipper who resides in the Rocky Mountains, now that the railroads pass his door, claims that he is entitled to have freight transported from New York at the same rate at which the steamship lines carry it from New York to San Francisco.

And this is the character of thousands of complaints that are heard from all parts of the country.

These complaints arise from the expectation that the railroads can do two things at the same time that are entirely incompatible—that they can base their charges upon "mileage," or "cost of service," and at the same time conform also to the laws of trade and competition.

It is the conflict between these two principles that causes these contradictory claims which are made upon the railroad companies all the world over.

The charges for transportation services upon all competitive traffic must be determined by their market value on purely commercial principles. Articles of small value which could not be moved if the full "cost of the service" was charged, including the interest on the capital invested and the general expenses, must be moved at a smaller profit. On the other hand, upon articles of great value higher rates may be charged, even exceeding the actual cost.

The higher charges made upon some classes of freight compensate the railroad companies for the lower charges upon others. They must be regulated according to what the "articles will bear." Thus, the average rate on grain from Chicago to New York is about thirty cents per hundred pounds, which is much less than the average "cost of the service." Were the railroads to charge the actual cost, including the proportional interest upon the investment, it would be impossible to move this grain at all. On the other hand, the charges on dry goods from New York to Chicago are seventy-five cents per hundred pounds, which is perhaps twice as much as the actual "cost of the service." Nevertheless, this is a reasonable charge, as that article can bear it. The weight of a suit of clothes is about five pounds, and the cost of carrying it from New York to Chicago is four cents. The railroads carry this commodity a thousand miles for much less than it costs to carry it from one part of the city to another. To carry a lady's silk dress from New York to Chicago by rail costs about three cents. Does anybody maintain that these are not reasonable charges, or that the principle which I have illustrated is not the correct one, and the one which should be adopted in the interest of commerce?

Similar considerations underlie the construction of all railroad tariffs in this country and all other countries; and such has always been the case. Yet representations are made by such bodies of intelligent men as the Chamber of Commerce and the Board of Trade and Transportation of New York that the railroad companies have invented a new method of extortion, because they act upon these principles; because they only charge that which the traffic will bear, and do not attempt to charge more and thereby exclude the interchange of commodities in the different markets. These accusations are heard everywhere, in the court-rooms, in legislative halls, and even from the pulpit.

There is one way by which all these complaints can be remedied, and only one way, viz, to stop all competition between the railroads, between the waterways and between the different markets. Put the transportation tariffs exactly upon the "mileage basis" and "cost of service," let the commerce of the country be concentrated upon the shortest and cheapest line of communication, and in the cities which are nearest to the markets, and exclude all others. You will then have succeeded in stopping three-fourths of the complaints now made against railroad companies. At the same time you will have succeeded in destroying three-fourths of the commerce of this country, and of the usefulness of the railroads.

It is due to the railroad companies even more than to the people that Congress should make a thorough investigation of this whole subject to show that these complaints and accusations are unjust, and arise simply from a want of the proper knowledge of the facts and principles that should guide the management of the railroads. Such an investigation would afford the best means of preventing all the numerous complaints against railroad management which are based upon misapprehension. If railroad management be judged by its practical results, and not by the requirements of mere theorists, it should certainly be satisfactory to the people.

After eliminating from the discussion of the railroad problem the complaints based upon misapprehension of the facts and principles involved, there still remain others based upon real evils, to the consideration of which I now desire to direct your at-

tention, with the view of explaining their causes and the difficulties that are encountered in attempting their removal, as well as the proper remedies that should be applied.

The requirements made upon the railroad companies of this country, and the work to be accomplished by them, may be stated under two separate heads.

First. The railroads are to establish, upon a system of a hundred thousand miles, spreading over the country like a great net-work, transportation tariffs based upon correct principles, the operation of which shall secure equal justice to all parties interested. These tariffs are to be adjusted to suit the wants and interests of individual communities, and of the people at large; and at the same time to secure just compensation to the railroads.

The question arises: What are the principles upon which tariffs can be constructed to comply with these requirements? I have shown the great diversity of opinion upon this subject, entertained by the merchants and shippers and by experts in the transportation business, and it will be conceded that the problem to be solved is one of great complications. But supposing that the principles upon which tariffs should be based were fully understood and agreed upon by all parties, and that a tariff complying with all the theoretical requirements had been established, then we have to deal with:

Second. The difficulty of carrying this tariff into practical execution, to have it enforced alike by all the railroads, without arbitrary changes and variations, either openly or secretly, by drawbacks, rebate, or other methods which are so objectionable, and are therefore made the special object of prohibition in the bills before you.

This is the work to be accomplished. And by whom? There are some twelve hundred railroad companies in this country generally in a state of competitive warfare with each other. Each one has an independent existence under the State laws, and has a legal right to regulate its charges as it sees fit within the limitation imposed by its charter and the common law.

To appreciate the difficulties met in performing a work of so great magnitude and complication, by so many separate and independent railroad companies, let us suppose for a moment that the tariff of this country was to be made by each of the independent States instead of by Congress, to suit its own special interests, disregarding the interests of other States, or the general interests of the whole country. Could it be expected that a tariff constructed by such agencies would be just, uniform, and harmonious in all its parts? Even with the full power of Congress to regulate the tariff, is it perfect? Does it avoid unjust discrimination, and is it satisfactory to all interests? Yet in comparison with the work that Congress proposes to do, the difficulties encountered and the complications met in making a just and equitable transportation tariff for a hundred thousand miles of railroad, that would be perfectly satisfactory to all interests, are incomparably greater. To prove the truth of this assertion I must now refer, more in particular, to the peculiar relations practically existing between competing railroad companies, each independent of the other, in regard to the establishment of transportation tariffs.

In the early history of railroad operation, when the roads were few, and when localities were served by only one railroad, which could exercise absolute control over its tariffs, no complaints were heard of unjust discrimination; the only complaint then was that the charges were too high. A road that completely controls its own tariff and does not have to compete with other transportation lines, can adjust its tariffs exactly upon the favorite theory of "mileage basis," or may be able to exact the full "cost of service." There is no motive to vary from these principles. Its charges for two hundred miles haul can be made just twice as much as for one hundred, and for four hundred miles just twice as much as for two hundred, adding a fixed terminal charge in each case.

There is nothing more simple than to make tariffs under such conditions. But, unfortunately, these conditions do not exist now, except in a few cases of some branch railroads, which penetrate the interior and have no competition. Nothing could be more satisfactory to railroad managers and railroad companies than to have these conditions still exist. They were analogous to those under which the tariffs upon rivers and canals are established. We never hear complaints of unjust discrimination upon rivers or canals, because the carriers upon different rivers and canals do not compete with each other. Rivers do not run parallel to each other or cross each other in all directions as the railroads do. The transportation tariffs on the Hudson River do not affect or conflict with those on the Ohio and Mississippi rivers. The transportation charges on rivers affect only people in well-defined and limited territories. The only competition that is carried on is between the various carriers upon the same river, and this in practice is exceedingly limited.

In the course of time certain transportation lines are established on all our rivers, which practically have a monopoly of the business. New-comers are driven out of competition by low rates for a period of time sufficiently long to exhaust their treasury. Or the new-comer drives out the old established line and gets possession of the

carrying trade. The only effect which such competition has in securing reasonable rates of transportation is through the fear of the established lines that by higher charges they would invite new competitors. The same fear, however, acts upon railroad companies under similar conditions.

It is necessary to recall to mind the state of affairs that existed in the earlier history of railroads, or even before the railroads were in existence, to contrast it with the present state of affairs.

The whole situation has been changed, and these changes have been brought about by the multiplication of the railroads which now spread like a great net-work over this country, crossing and recrossing each other in every direction. The people instead of being obliged to rely upon one carrier for transportation services have the choice of many. This introduces a new principle in the establishment of railroad tariffs—the principle of competition. This competition, which, while it confers the greatest benefit upon the people in securing low rates of transportation, is at the same time the source, especially if carried on to excess, of all the complications and difficulties of the tariff question, and of all the real evils of the transportation business which you are called upon to remedy. The real solution of the problem consists in controlling and regulating competition, to confine it to the limits within which it is beneficial, and to prevent it from becoming the source of unjust discrimination, and of ruin to the competitors.

As long as there is only one road between two points, and no other means of transportation, that road has full control of the regulation of its tariff, and is in a position to establish it upon a just and proper basis. If it fails to do so it can be held directly responsible under the common law. But as soon as a second road is built which can render the same service to the people, the separate and independent control of the tariffs of each company is lost. One of the companies can now control the tariff of the other.

How are the tariffs to be regulated under these new conditions, and by whom? There are only two plans: Either one road must adopt the tariff of the other, or must by special agreement or combination, as it is generally called, establish a joint tariff, making the same charge for like services.

The second plan is that these roads compete with each other, each company trying to secure the business by making lower rates than the other by underbidding each other, the result of which is that both must soon reach a point where the business has to be done without profit, or even at a loss.

Under the first plan, the roads are enabled to avoid all unjust discrimination, and can fully comply with the common law. Under the second plan, the rates must be constantly fluctuating, being lower one day than another, and less to one shipper than to another, resulting in unjust discrimination, and thereby in the violation of the common law, although each company may strictly conform to it.

The independent action of the two roads—the want of joint action in regulating the tariffs—results in this violation of the law, and neither party can be held responsible for it. This difficulty, existing between only two competing roads, is, of course, greatly magnified when there are twelve hundred separate railroad companies (as is the case now in this country), owning one hundred thousand miles of road, many of which run parallel with each other; many others cross and recross each other in all directions, each company competing with many others, as well as with the water-ways, canals, lakes, and ocean, each one trying to secure the carrying trade which the others claim as their own. The establishment of just and equitable tariffs, and their permanent maintenance under such circumstances, under the separate action of these corporations, is therefore an impossibility. No single company can be held responsible for unjust discrimination arising from the failure of all or many to co-operate; no one road can control its own tariff, when the tariff of one modifies or affects the tariff of the other. The joint action of all competing roads is necessary to establish a proper and just transportation tariff, and to maintain the same permanently.

The question now arises, how, under the conditions under which this railroad system has been created, can this be accomplished?

There can only be one plan, viz, that adopted by the framers of the Constitution of the United States. These separate railroad companies must, as did the separate States, as far as their joint interests require and the action of one of these companies influences and is dependent upon the action of the others, establish a central government, or some central authority, through which these tariffs can be regulated and controlled in the interest of all the railroads as well as in the interest of the people. These separate companies must be willing to subordinate their separate interests as far as it may be necessary for the accomplishment of the purpose for which their properties were created.

Having arrived at this conclusion, the plan suggests itself that Congress should at once assume the authority of controlling the commercial management of the property of these private railroad companies. Two bills are before your committee which are intended to carry out this plan. The intention of these bills is in accordance with

correct principles—that there shall be some central control over the transportation tariffs of the country, but there are insurmountable objections to the particular measures proposed.

In the consideration of these proposed measures, two questions suggest themselves:

First. Is it practicable for Congress to control, properly and efficiently, the transportation tariffs of this country?

Second. If it be practicable, has Congress the legal right to control them?

First, as to the practicability. It is in the nature of the transportation business that a railroad located entirely in one State can affect the proper adjustment of railroad tariffs throughout the whole country, or at least through a large section of the country. The New York Central or Pennsylvania Railroad entering into a war of rates, or any one road located entirely in one State and having the power to change and modify its tariffs at pleasure, uncontrollable by the Federal government, can derange the proper adjustment of the best devised system of tariffs and cause that unjust discrimination which it is your desire to prevent. The railroads located in Canada can exercise the same influence upon the tariffs of American railroads.

It is not claimed by the advocates of the proposed measures that Congress has the power to control the tariffs of roads located entirely in one State or the tariffs of roads located in foreign countries. It can therefore have no power to regulate the tariffs in such a manner as to avoid unjust discrimination. Neither have the State governments power to regulate the tariffs beyond the limits of the States; and hence it is utterly impossible for the Federal government or the government of the States to influence the tariffs so as to make them uniform and just, and to maintain permanently such just tariff.

In twenty-six of the States in the Union there have been appointed commissioners for the purpose of preventing unjust discrimination. While they may exercise some influence over the local tariffs in the several States, it is utterly impossible for them to prevent unjust discrimination, as that is created by the action of roads outside of the State.

Railroad officers have been blamed because when they appear before Congress and attempt to explain the difficulties of railroad management, they argue that Congress has no power to regulate the tariffs of the country, and when they appear before the State legislatures they argue that the State governments cannot control the matter. These are the real facts, however, for the existence of which the railroad managers ought not to be held responsible. They arise from the peculiar character and constitution of our government, and from the interdependence of railroad tariffs constructed upon competitive principles. Competition exercises its influence over the whole net-work of the railroads to its farthest extremities, regardless of the boundaries of States or countries. Hence railroad tariffs are entirely uncontrollable by direct legislation, and all future attempts at direct control must fail as they have failed in the past.

But even supposing that this first and great difficulty could be overcome, the plan proposed by Mr. Beltzhoover to control the railroad tariffs of the country is entirely inadequate to cope with the great work proposed. His bill provides for the appointment of nine commissioners with the power to fix the maximum rates of transportation throughout the country. I have already shown that the maximum rates of transportation in this country are fixed by other conditions than direct legislation. They are determined by the laws of trade and competition, and under these laws the people are not only secured in reasonable tariffs, but the charges are restricted even below the cost of transportation. There is, therefore, not the least necessity for further restrictions. The only object of regulating transportation tariffs is to prevent unjust discrimination. The bill I have just referred to cannot accomplish that purpose. It leaves the question of unjust discrimination exactly where it now is; and if the nine commissioners should meddle with the established tariffs of the country, it would increase rather than prevent unjust discrimination; it would be utterly impossible for nine men to regulate the transportation tariffs over one hundred thousand miles of railroad with the view of making them just to the public as well as to the railroad companies. To perform this work intelligently and properly it would require the duplication of just such an immense organization as the railroad companies now possess for the very same purpose.

Each one of these twelve hundred railroad companies has at least one officer who has special charge of the tariffs of the road, and who often has many assistants, all trained experts in the transportation business, and who, from many years' experience on particular roads, understands the wants of the people who are served by these roads. These officers are in constant contact with the shipping communities, either personally or through agents especially appointed for that purpose, or through the many station agents located along the lines of the roads. The latter are in constant communication with the shippers, and are in a position to know exactly their wants, receive their requests, hear their complaints, and report the same to the superior officer. In this way all the facts that are necessary to be considered in the establishment of

tariffs are brought before the proper authorities, who are enabled to take intelligent action thereupon.

Assuming that these station agents are located along the line of these roads at a distance of five miles apart, there would be ten thousand agents, who report to the general freight agents, and who bring the shippers in direct contact with the head of the railroad administration, enabling it to judge of the wants of the people and to intelligently establish the tariffs.

It is not reasonable to suppose that nine commissioners, who stand entirely outside of these organizations, who have no such means of acquiring correct information, and who, perhaps, in the first place, may have no knowledge of, much less experience in, the transportation business, could evolve out of their own minds just and proper transportation tariffs, or could control, even if they were possessed of the highest accomplishments in that direction, a work that requires the services and agencies of twenty thousand people, who, although not exclusively engaged in this business, whose services are necessary for the intelligent and proper conduct of the business. A work of this kind, if it is to be done effectively and properly, cannot be concentrated upon nine men.

Looking, therefore, merely upon the practical side of the question, it appears to me impossible for Congress to exercise any intelligent control over the railroad tariffs, in the manner proposed by bill 1433.

The second question to be considered is: Has Congress the legal right to determine the compensation for the use of the railroad property if it were otherwise practicable?

The right to fix the compensation for the use of property is the right to control that property. Under the Constitution of the United States (which merely enforces a principle that is indorsed by all right-thinking men) property cannot be used either by the government, or under its authority by private persons, except due compensation is returned for its use to its owner. Within the limits fixed by the common law or by their charters the railroad companies have the absolute right to determine the compensation for their services. To take this right from them means the confiscation of their property, to the extent at least that their compensation is reduced below that to which they are rightfully entitled. I do not entertain the least doubt that Congress has a right to regulate the use of property in the interest of the public, but this right does not include the right of confiscation. No measure can be adopted by Congress for the regulation of railroad tariffs that interferes with the proprietary rights of the railroad companies except Congress is prepared to recompense the companies for losses incurred by any act of Congress.

The same questions with which you are now dealing have been dealt with in European countries. No one will accuse the Emperor of Germany or Prince Bismarck of possessing any exalted ideas of constitutional rights; but when the Prussian Government came to the conclusion that it was necessary to have a central authority over the railroads, in order to cure the evils that arise from the separate management of railroad tariffs by so many independent railroad companies, it adopted the only proper course consistent with the proprietary rights of the railroad companies, it *purchased all the railroads* of the State, became the absolute proprietor, thus acquiring the legal right to control them.

This course is in strong contrast with that of some of the State governments in this country, who, in their attempts to rectify the evils of the transportation business, adopt a much cheaper but more summary plan. By an edict of the legislature this great property is handed over to three men, who have the power to arbitrarily determine what remuneration railroad companies shall receive for their services. These men are responsible to no one for their acts, and can do with the property as they please.

I do not propose to enter here more fully into a discussion showing the great wrong that has been perpetrated upon the railroad companies of this country by such legislation.

The bills before you, Nos. 3563 and 1433, are conceived in the same spirit. Decent regard for the proprietary rights of the owners of the railroads will, at least, suggest that so great a power as the control of such a large property should be exercised with the same care as the State exercises in the management of its own property.

The State of New York does not fix its tolls upon this plan. It does not give authority to three men, elected by the legislature, to determine the compensation it shall receive for the use of the canal without any farther control over their action; but it establishes a board of canal commissioners, composed of the lieutenant-governor, comptroller, and chief engineer, and other high State officials, who are required to prepare and propose the tariffs and report their recommendations to the legislature, subject to its approval and control.

The canal is comparatively a small property as compared with the value of the railroad property of the States, in which the commissioners control the railroad tariffs; and to make out a toll-sheet for the canal is a simple transaction as compared with the work of establishing a tariff over the railroads of a State which should possess the

qualification of being just to the railroads as well as to the people. The constitution of the State of New York wisely limits the expenses of the canal to the income. No such check is to be imposed upon the nine railroad commissioners.*

In France, with but 12,000 miles of railroad instead of 100,000 miles as in this country, where there is governmental control of the railroad tariffs, there is a board composed of thirty-three men, with the minister of public works at their head, all of the members being educated experts and men of thorough experience in railroad management.

The establishment of such a commission, composed of men who at least are as competent to deal with these questions as the railroad managers themselves, might be justified, but to put the control of the whole railroad property of this country into the hands of nine men, as is contemplated by bill No. 1433, cannot be justified upon any ground whatsoever, considering especially the nature of our government and the probability that these commissioners will probably be appointed by political influence without possessing perhaps the least qualifications for the duties assigned to them.

I have been particular to explain the complicated work to be performed by the railroad companies and the difficulties of the transportation business, which do not arise from any willful or illegal act of the railroad companies, but from the fact that the various States have given the authority to build and to operate railroads to separate companies. The evils are the result of the system that has been adopted by governments in this country, and the railroads should not be held responsible for them.

Under this system the railroad companies cannot even intelligently control their own property and manage it in their own interest. Yet the parties who have invested their money in this property, who have been instrumental in the development of this country and in creating its great wealth and prosperity, who have conferred the greatest benefits upon the people, who have assumed all the great financial risks, instead of being protected and aided in the control of their property, are to be further punished by having their property handed over to nine irresponsible men to be dealt with as these men may see fit; and this without the slightest evidence that the railroad companies have been guilty of any illegal acts. They are to be treated as criminals. Their property is to be confiscated. They are to be forced to perform involuntary labor without a trial, without due process of law, even without an investigation, but simply upon the accusations of interested persons who send petitions to you, entirely ignorant of the facts and the principles upon which the management of this great property can and ought to be conducted, and whose petitions, signed, no doubt, without ever having been read, or their contents being understood, are the only foundations upon which you are asked to pass these laws, that would not only ruin the railroad companies, but even involve the ruin of the commerce of the country and the ruin of the petitioners.

Should it be found that the transportation business cannot be controlled in the interest of the people by the separate management of railroad companies, the only course to be pursued by the government is to adopt the plan of the Prussian Government—to purchase the railroads and let the government become the sole proprietor and sole regulator of this property.

It does not, however, require any argument to show that such a plan cannot be adopted by the United States Government, because it would result in much greater evils than those which you desire to remedy. It may be practicable for the Government of Prussia, or of other German states, where the civil service is organized and conducted upon the same plan as our Army, and where the state takes particular care to educate a corps of officers and employes for the very purpose of managing railroads. Whatever measures may be necessary to deal with the railroad problem in this country, they must be taken in accordance with the principles upon which this government is founded and the practical methods by which it is carried on. It would be extremely unfortunate if no plans could be devised upon which the railroad property could be properly managed and controlled in the interests of the people in accordance with these principles and consistent with the proprietary rights of the railroad companies.

How this may and should be done I will now proceed to consider.

Here Mr. Fink suspended his argument and the committee adjourned.

WASHINGTON, *March 18, 1882.*

The committee met at 10 a. m.

Mr. FINK continued his argument as follows:

In my argument yesterday, gentlemen, I endeavored to show that the complaints against railroad management which are made, and which management you are expected to remedy, arises from the fact that the people who criticise the railroads do not understand the correct principles upon which these railroads are or should be managed, and that they make all sorts of contradictory requests, which it is impossi-

ble to comply with. I have shown that there are only two requirements that can justly be made upon the railroad companies, viz:

That they shall perform transportation services at reasonable rates and that these rates should be just.

I have shown by statistics that the railroad companies have performed the first of these two requirements; that they have not exacted unreasonable charges, but have performed the transportation service at less than cost. When the committee adjourned I was discussing the second requirement, to show that the railroad companies do not have it in their power, although they are inclined to do so, to adjust the tariffs of the country so that they will be perfectly just; and it is not the fault of the railroad companies if they have not accomplished this result, which they are constantly endeavoring to do. I had shown that this difficulty arises from two causes. First, from the great multiplication of competing roads, by which the tariff of one single road may effect the tariffs of a whole system, and second that the 1,200 railroad companies of this country are all independent agents who are generally at war with each other, but without whose concerted action it is impossible to establish or maintain just and reasonable tariffs; that these are the chief causes of unjust discrimination, and that if you propose to pass any laws to prevent unjust discrimination you will have to remove the causes; this may either be done by the government purchasing and controlling the railroads, or it may be done by the railroad companies associating together and forming a government of their own (of course under the control and supervision of the general government), in the same way as the Government of the United States is formed by the several States to control all matters in which the States have a joint interest, or in the same way in which municipal or county governments are authorized by a State.

I will now further explain the practical difficulties the railroads have to contend with in establishing and maintaining just and proper tariffs, and to show that the solution of the railroad problem is not a question of legislation, but, like all other commercial transactions, it is a question of management and administration.

Whenever there are two or more carriers that can perform the same transportation service to the same people it is necessary, in order to carry out the common-law principle, according to which all people are entitled to receive the same services for the same compensation, that they should agree upon a joint tariff. This combination, as it is usually called, of competing carriers is, therefore, absolutely necessary to the proper management of the railroads in the interest of the people, and it is also necessary for the proper management of the railroad property in the interest of its proprietors; because, as I have heretofore explained, the constant lowering of rates by competing transportation lines, one underbidding the other, cannot be continued forever, as it must necessarily, sooner or later, result in the ruin of the competitors.

Ever since there have been competing carriers, although at times they may have been engaged in "wars of rates," at other times their practice has been in this and other countries to confer together for the purpose of establishing joint tariffs for like services and to agree to strictly maintain these tariffs. This joint tariff must of course be reasonable, and in this respect complying with the common law; in this country all the tariffs on interstate traffic are reasonable, being limited by general competition. When there are only a few competing carriers concerned in such transactions, and those carriers can be relied upon to do as they agree, agreements of this kind can readily be carried out. But with the multiplication of railroads this difficulty greatly increases, and the methods that were sufficient in the earlier days of railroading have become insufficient to accomplish the desired purpose. It is exceedingly difficult to secure the co-operation of a great number of railroad companies with so many separate interests. The co-operation of at least fifty separate railroad companies, four of which, however, control some 80 per cent. of all the roads in the territory east of the Mississippi River and north of the Ohio River, is required to establish these tariffs for the roads in that territory.

There are practical difficulties in the way of bringing so many people together at one time and at one place; and yet all have to be consulted. It is still more difficult, when they do come together, for them to agree, and more difficult still after they have agreed upon the establishment of a just tariff to make them strictly adhere to it. And yet it is absolutely necessary that all these difficulties should be overcome, as the want of co-operation or the failure to adhere to an agreement on the part of a single railroad renders nugatory the efforts of all the others to establish just tariffs and avoid unjust discrimination.

I cannot sufficiently impress upon your committee the importance of this feature of the modern transportation business, which makes it possible for a single railroad manager, either from ignorance, selfishness, or any other motive, to prevent the proper and intelligent management of a whole system of railroads, and cause all the evils of the transportation business which you seek to remedy. This peculiar feature is the result of the interdependence of railroad tariffs, and this interdependence is the result of competition between railroads, water-ways, and markets, which spreads its influence

with the rapidity of lightning all over the country in every direction as far as the railroad system extends, and even beyond the ocean. The cheap transportation rates upon a single line of transportation, like the Erie Canal, affects the railroad tariffs to the most interior cities in the Gulf States.

For example, when the rail transportation rates are reduced between Chicago and New York, on account of the cheap transportation upon the lakes and canal, the rates from interior cities, such as Saint Louis, Indianapolis, Cincinnati, &c., are also reduced. This is the direct result of the competition between the lines of roads between Chicago and New York and the lines of roads between the other cities and New York. If the Indianapolis roads did not reduce their rates, the freight destined to New York would be carried from that city to Chicago by other competing roads, and from Chicago to the East by canal or railroad, leaving the direct lines from Indianapolis to the East without any work to do. They are therefore obliged to meet the canal competition the same as if the canal ran to Indianapolis. This competition between the transportation lines can never be prevented by any combination between the competing roads, unless all the railroads belong to one corporation.

This is merely an illustration of the general principle that operates all over the country. A single transportation line, be it by water or rail, may completely control the tariffs of a whole system of roads. And this is the reason why no adjustment of tariffs can be maintained and carried out unless every road that can exercise such influence voluntarily consents to the rates and adheres to the agreement to maintain them.

This peculiar feature of the railroad transportation business gives to the people the great advantages derived from competition, but at the same time it gives rise to the evils, and the difficulties of maintaining just and permanent rates of transportation. Any railroad company by its separate action can destroy the best adjusted tariffs. Unless this feature of the railroad transportation business is fully understood and kept in view, you will be unable to devise proper means to prevent unjust discrimination. The co-operation of all competing roads, either voluntary or compulsory, is necessary to establishing and maintaining just and equitable tariffs.

The "Reagan bill" is defective, because it does not provide any measures for the accomplishment of the first-named purpose. It fails to lay the foundation for the structure. It commences at the wrong end. It provides for measures for the enforcement of tariffs, but it fails to establish just and proper tariffs. It leaves the railroad companies to go on as they have been going heretofore, each one establishing its own tariffs. The final results of these several tariffs are necessarily confusion and chaos.

This is the objection to the "Reagan bill." Its intentions are all right, but it fails to adopt any measures by which they can be carried out. It even prohibits such measures. The railroad companies desire to attain precisely the same object as the "Reagan bill." They desire to establish and maintain just and reasonable tariffs. But they are without power to enforce the agreements made for that purpose. What is to be done under such circumstances?

I have endeavored to show that neither the Federal Government nor the State governments have it in their power, owing to the competition that spreads its influence upon the tariffs beyond the boundaries of their jurisdiction, to control these tariffs, and that even if it were practicable or desirable for them to do so, they do not possess the legal right to determine the compensation that private persons shall receive for the use of their property.

The only plan that could be legally adopted would be the purchase of the railroads by the government, and this plan is out of the question.

Neither the government nor the railroads, each acting for themselves, are able to accomplish the desired result; it can only be attained by the co-operation of the railroads and the government. To what extent remains yet to be considered. This much may be premised: That there certainly should be such co-operation in obtaining an object that is so eminently for the interest of both; and the only question to be considered is as to the practical means by which that co-operation should be secured.

Before entering into the consideration of this question, I will explain the work the railroad companies have already accomplished in that direction by their own unaided efforts.

First, as to the establishment of proper tariffs: As the result of the experience of many years, certain rules and laws for establishing and regulating competitive tariffs have been adopted by the railroads, based upon correct principles. There is now comparatively little difficulty in arranging the competitive or interstate tariffs of the country satisfactorily to the railroads and to the people.

There are some few open questions that remain to be settled, which have heretofore been the cause of dissensions, railroad wars, and unjust discrimination. I refer to the adjustment of the rates from the West to the seaboard cities, which have given rise to so many wars of rates. But that question is now also in the course of adjustment, and will, perhaps, hereafter lead to no more trouble.

But the greatest difficulty encountered in the attempt to solve the railroad problem is the enforcement of the tariffs after they have been mutually agreed upon. It is

owing to the spirit of competition that exists between the railroads; each company endeavoring to secure the largest amount of business, to increase its tonnage by taking the business away from some other road, and this often in direct violation of its agreements.

But even if there were an honest intention on the part of all roads to adhere to the tariffs, it is difficult to enforce it. I will not detain the committee by entering into the practical details of railroad management, but will merely say that the difficulty just named arises from the want of proper organizations and the adoption of practical measures, such even as are at the command of the railroad companies, to carry out these agreements. But during the last few years great progress has been made in this respect; proper plans of organization have been adopted to overcome all these practical difficulties as far as it lies in the power of the railroad companies.

Formerly, when agreements were made between these transportation companies in regard to the establishment and maintenance of interdependent tariffs, no means were provided to carry them out. These plans were formed in conventions of railroad officers that were held from time to time, and when these conventions dispersed these agreements were left to carry themselves out as best they could. How these practical difficulties in dealing with the tariff question can and have been remedied may be best shown by an explanation of the organization called "The Joint Executive Committee." That committee is formed by representatives of some forty different roads located east of the Mississippi River. Similar organizations exist in other parts of the country, which are more or less perfect.

The general plan upon which they are formed is this: A central office is established, with a commissioner at its head, through which office the various roads whose tariffs are interdependent transact their business. This facilitates the negotiations upon all matters upon which agreements must be reached. Instead of forty different roads, whose representatives live far apart, endeavoring to negotiate among themselves, there is now a central office through which each member can communicate with the other members. The commissioner is in a position to know the wants of each of the members, and can arrange the proper plans between them.

The members of the committee meet from time to time and agree upon the more important questions. When they cannot agree as to matters involving the property of the roads, such questions are not decided by majority rule, but they are submitted to arbitration and decided upon their merits, with due regard to the rights and interests of each party. In this way conclusions must be reached and questions must finally be settled. They are not to be left open. If they were left open they might lead to disruption. The decision of the board of arbitration is binding upon all the members. The action of the committee and the decisions of the board of arbitration are to be enforced by the executive officer, the commissioner.

This organization constitutes a complete self-government for the railroad property represented on the committee. The special interests of each member must be subordinated to the extent that it may be necessary for the benefit of the whole, thus avoiding wars and contentions and all those injurious consequences which it is contemplated to remedy through the bills that are before your committee.

The object of this organization, therefore, is precisely the same as the one which the proposed legislation has in view, and it is the only possible plan by which this property can be controlled intelligently in the interests of the railroads and the public.

The first complete organization of this nature was formed in the Southern States in 1875, called the Southern Railway and Steamship Association. Others similar to this plan exist also in the West. If this plan could be legally enforced and made compulsory upon all the railroad companies whose tariffs affect each other, I would consider the solution of the railroad problem in this country accomplished.

But there are as yet many difficulties in the way of so desirable a result. In the first place, many of the railroad managers have not themselves yet come to the conclusion that this is the proper plan. Many still cling to the delusion that they are the sole controllers of the property under their charge. They are not yet willing to acknowledge that the railroad property cannot be exclusively controlled by each of the separate corporations who own it, and that it can only be properly controlled jointly by all of the competing lines whose tariffs affect each other, and any one of which is in a position to destroy the property of many others. Many of the railroad managers still cling to the idea that they are autocrats, as far as the control of their property is concerned, and that they can dictate terms and force compliance, although the dearly-purchased experience of many years should have shown that this is not the fact. Many of the railroad managers also do not yet sufficiently recognize and consider the effect of their separate action and of railroad wars upon the interest of the public. They do not recognize that they have not the right to use their own property to injure the property of others, and that by their wrangling among themselves for the carriage of a few tons of freight they affect the public interest by creating all the unjust discriminations that arise from purely selfish acts of disagreement between these private corporations.

When they learn to recognize all these truths—and they are fast learning from practical experience and heavy losses, and from the displeasure of the public—they will cease to make war upon each other with the property of the unfortunate stockholders, and they will be willing to submit all questions of difference which might lead to war voluntarily to arbitration and abide by the result; the more so, as it can be shown that no decision of the arbitrators upon any points that can be raised can be more destructive to the best interests of these corporations and of the people than useless and senseless wars. When that time comes, if it ever does come, then the railroad question is settled, in the spirit of the institutions of this country, under the self-government of the proprietors of the railroads and in accordance with the laws of the country. If there is no prospect of realizing this expectation, then, and not until then, may it become necessary for the government to interfere. But this interference can only be effective when it is in aid of the general plan adopted by the railroads.

The first step to this end should be to legalize the management of the railroad property under this plan and to abandon the antiquated notion that a government, or combination as it is called, of this kind is against public policy. It can be clearly shown that it is absolutely required for the public interest. The great defect in the present plan, and its great weakness, is that the co-operation of these railroad companies is entirely voluntary, and that they can withdraw from their agreements at pleasure.

I do not propose that the government shall compel the railroad companies to transact their business in the way I have described, but simply compel them, in case they voluntarily adopt that plan, to comply with the terms of their agreements, and carry them out as they would be obliged to carry out any other contract.

This step alone I think would be sufficient to accomplish the purpose, because the self-interest of the railroads requires the adoption of this plan, and it is only the absence of authority to compel them to adhere to it that leads to disruption. Among so many railroad companies there may always be a few who think they can enrich themselves by the violation of compacts, at the expense of the others, and it is, unfortunately, in the nature of the railroad transportation business that one of these can destroy the good results of the co-operation of all the others.

Another method that could be adopted by the government is to enforce the tariffs established by the railroads and approved of as reasonable and just by the government.

Some of the provisions of the "Reagan bill," with some modifications, could, if applied, aid the railroad companies in carrying out their plans, but they could not be effectively applied without the co-operation of the railroads. Thus the roads that are entirely located in one State and the roads in adjoining foreign countries should first be made parties to the agreement to establish and maintain tariffs (which they could be relied upon to do from motives of self-interest), and then the law could be applied even to those roads.

I am free to say, however, that I have little faith that any law prohibiting the payment of rebates will be of much use. There are so many means of avoiding it. Settlements can be made by rebate voucher a year or two after the transaction has taken place, or in the form of presents, commissions, &c. Still a law of this kind could do no harm; it would aid me in performing the duties imposed upon me by the associated roads of the Joint Executive Committee. I have, however, greater faith in the practical plans adopted by the railroad companies themselves to insure the maintenance of agreed tariffs.

According to this plan the railroads, at points of competition, agree upon a division of the competitive traffic. After years of struggle it has been ascertained that that division takes place in certain fixed percentages, which hardly varies from day to day, or from month to month, or from year to year. It has been ascertained that during wars of rates the distribution of the traffic between competing roads takes place in the same proportion as during the time when rates are maintained. There are other conditions, such as the capacity of the roads, their location, their connection with trade centers, which really determine the distribution of traffic. Having ascertained from past experience, as near as this may be practicable, in what proportion the business divides itself between the competing roads, an agreement is made by which each of these roads restricts itself to carry a certain percentage of the total competitive traffic, and the necessary machinery is provided to carry out this agreement. Thus all motive for entering into a competitive strife, to pay rebates and drawbacks, and to do all these things which the "Reagan bill" condemns, have been practically removed.

It is certainly more effective to remove all motive for violation of an agreement than to rely merely upon the fear of the violator that he may possibly be discovered and punished, especially in a case like this, when there are so many modes by which his acts can be covered up.

This method of enforcing the properly established and published tariffs of competing lines has become popularly known as "pooling"—a most misleading term—and I

am sure that when Mr. Reagan inserted that provision in his bill by which "pooling" is to be prohibited he could not have understood its meaning.

This practice called "pooling" has nothing whatever to do with the regulation of the rates. They are regulated upon recognized correct principles, which I have endeavored to explain; and the object of pooling is simply to maintain these rates alike to all shippers, thereby to prevent unjust discrimination and to secure reasonable compensation to the railroads; and this being exactly the professed object of the author of the "Reagan bill," instead of prohibiting this measure he would probably, or should have, legalized it if he had fully understood its meaning.

Mr. Reagan, no doubt, labored under the misapprehension that the system of "pooling" was invented for the purpose of exacting unreasonable compensation from the people, and that it was against public policy. I believe I have established the fact that it is utterly impossible in this country, with the great number of railroads and the great number of water-ways, with the active competition in the markets that cannot be abolished by any combination, for the railroads to exact unreasonable charges. The method called "pooling" is not new; it has been resorted to at all times and in all countries since competing transportation lines existed.

In England competitive wars between the railroads have been prevented for the last twenty years by it. In 1856 the Right Hon. William E. Gladstone was engaged by the railroads as arbitrator to divide the traffic between the three principal railroads of England. This division settled many of the difficulties that previously had prevailed.

All the railroads of England are incorporated by the government in an association called the "clearing-house," which has enabled the English roads to take joint action in establishing and maintaining tariffs. In Germany the "Railway Unions" serve the same purpose.

In Austria even the railroads owned by the government enter into "pooling" agreements with the railroads owned by private companies in order to prevent competitive strife between them. In this country similar plans have been adopted, and have been found to be successful in preventing the evils which the "Reagan bill" is intended to remedy. Yet, strange to say, these methods called "pooling" in this country, the only methods which have been found to be practical all the world over in dealing with these new transportation questions, are to be prohibited by the "Reagan bill." The railroad companies are condemned because they cannot maintain the tariffs alike to all persons, and at the same time they are to be prohibited by law from adopting the only practicable method by which this can be accomplished.

I have now endeavored to explain the methods that have been adopted by the railroad companies to accomplish the objects of the various bills which are now before you, in a practical way and consistent with the proprietary rights of the railroad companies. I am fully aware of the objections that may be urged against the proposed plan of co-operation; all of which, however, are based upon want of knowledge or misapprehension; but as they exist in the public mind, I do not ask for any legislation to enforce these plans. My intention was merely to show that if you desire to aid in the solution of the railroad problem, that steps should be taken to remove the causes of the evils of which complaint is made. Neither do I propose that the government should aid the railroads in carrying out this plan without such restrictions and supervision as may be considered necessary to guarantee that the interests of the people are fully protected.

I am fully aware that no proper legislation can, or ought to be, expected in the present state of the railroad question. In the first place, upon the general ground that it is better for the railroad companies to work out this problem themselves. Taught by their own experience, they should learn to control their property without the aid of the government. It is for their interest to do so, and there is every reason to expect that sooner or later they will succeed. It cannot be expected that such complicated questions can be worked out in one day.

If I have made myself understood, if I have been able to impress upon you the great difficulties of the railroad problem, you will wonder that the past management of the railroads under all these complicated conditions has been so successful that the real evils are so comparatively few, and that even those are not without some compensation to the public. Railroad wars may be expensive, but they have taught useful lessons to the companies, and have aided much in securing to the people the present cheap rates of transportation. The fact that the people of this country are now receiving transportation services for about one-half that the Government of France has been able to secure for the French people, is in a measure due to this competitive strife between the American railroad companies, which is unknown in France; and the people can well afford to put up with some of its disadvantages and the evils resulting from these contests.

It is much better for the government not to interfere at the present stage, and perhaps not at any time; because in this country where constant changes take place, new

roads being built, &c., it is better that there should be nothing in the way of readjustment under new conditions, even if it be at the expense of an occasional war.

I am aware that any action on the part of the government looking toward the maintenance of established tariffs in the direction in which I have suggested will be opposed by two classes of people, who are the special beneficiaries of railroad wars and dissensions—the producers and the middlemen. As a rule, whatever reduction is made in the transportation charges goes to increase the profits of these two classes.

Another of the many misapprehensions entertained by the public upon the railroad question is, that the large class of people, the consumers, are always benefited by reductions in transportation rates. The price of articles to the consumer is generally fixed in the open markets of the world. When this is the case a reduction in the transportation rates does not benefit the consumer, but benefits the merchant, the producer, or the manufacturer. It is for this reason that these classes of our people are constantly endeavoring to control railroads through legislative enactment, and restrict transportation rates. It is for this reason that the "Granger laws" are in existence. These interested classes are no more "the people," as they style themselves when opposing the railroads, than the stockholders of the railroads, and they have no more right to ask for governmental restriction of transportation charges than the railroads have to ask that the government restrict their commission charges or the prices of their products, as long as the carriers are complying with the common law, and with their special charters.

It is the business of these classes to buy as cheaply as possible, to have the transportation rates reduced to the lowest figure, and then to get the highest possible price for their articles, and to the extent that they reduce the transportation charges they increase their own profits. You therefore see these classes combine—the farmers, the manufacturers, the dairymen, and merchants, and come before your committee to have the railroads restricted. When Mr. Reagan mentioned yesterday the parties who he said had written to him, and complained, who wanted these laws passed, he named no others than these trade combinations, whose profit is increased by a reduction in transportation charges, the great mass of the people, the consumers, deriving no benefit therefrom. These classes accuse the railroad companies of extortion, no matter how low the transportation charges are. They are never satisfied.

During the last ten years the railroad companies have reduced the transportation charges nearly one-half, and yet the complaints of these parties are as bitter and as unceasing to-day as they were ten years ago, if not more so.

From the very nature of the relations of these parties to the railroads, it is but natural that this state of affairs should exist, and will always exist. One of the principal dry-goods merchants of New York is reported to have once said that he considered his customers his greatest enemies, and the railroads have good reason to say that this is the case with their customers, for they are constantly trying to secure transportation service for less than it is worth, and complain when they do not succeed.

I am led to make these remarks because I think it necessary that your committee should take into consideration the sources from which these complaints come. Mr. Reagan has named them to you yesterday. They do not come from the *people*, the great mass of consumers; they come from the trade bodies or combinations of interested classes.

You can judge of the motives of these classes by the fact that they come to you with petitions for the passage of laws such as the "Reagan bill," the effect of which they do not understand, laws which if carried out would result in the ruin of the petitioners and also in the ruin of the commerce of the country, which the railroads have built up after years of careful labor. It can hardly be presumed that the signers of these petitions, who represent the most intelligent classes of our people, have ever given the least attention to the contents of the petitions or even know what they ask for. They only know that they are antagonistic to the railroads, and imagine that any restriction placed upon the railroads would result to their advantage. This is the foundation and the only ground upon which you are called upon to legislate upon the railroad subject.

For years the attitude of the railroad companies before the people has indeed been a singular one. They are looked upon and are to be treated as criminals, not entitled to the control of their own property. No doubt the railroad managers are much to blame for this state of affairs. In their consciousness of having conducted their business upon correct business principles, they have taken no steps to place themselves in the proper light before the people, but have allowed unmeasured abuse to be heaped upon them without paying the least attention to it. The time now has come when this should cease, and when the people should be enlightened as to the true position of the railroads in this country; and I appeal to your committee, under whose consideration are now a number of measures, which are the result of misapprehension and ignorance, to which legal sanction is to be given by Congress, that before you recommend any action at all you will cause a thorough investigation to be made upon this whole subject, which I am sure cannot but result in the full vindication of the

railroad management of this country. The railroad companies have been wronged, not the people; and they have a right to ask for this investigation as a measure of self-protection against class legislation and judicial decisions based upon a total ignorance of the principles upon which the railroads have and ought to be managed.

I do not claim perfection in the management of railroads; but I do claim that the best has been done under the difficult conditions that possibly could have been done, and more has been done for the people of this country than for any other people in the world.

Those who do expect perfection in the management of this great property, as long as it has to be managed by human agencies, must, of course, remain disappointed for the present.

The evils of the transportation business have been magnified to you by interested classes; by professional agitators, who desire to keep their names before the public; by persons who desire to make political capital out of an agitation which presents so many popular features. In the caricature which they have drawn they have represented the evils of railroad management as a great mountain, and its benefits as mole-hills. If a correct picture were to be drawn, the benefits would be represented, not only by great mountains but by a great mountain chain, and the evils in comparison would appear as a mere mole-hill. It has been my purpose to present to you the true picture; and if I have not succeeded in this, I hope I have at least succeeded in establishing a standpoint from which the whole subject should be viewed, in order that you may be able to see it in its true proportions.

I fear I have already detained your committee too long, but I have far from exhausted the subject, and unless you desire to hear me further, I will now conclude my argument.

I thank you, gentlemen, for the kind attention with which you have listened to my remarks, and now if any member of the committee desires to ask any questions I shall be happy to answer them to the best of my ability.

Mr. WASHBURN. In the course of your argument you have indicated, I think, that perhaps a commission to consider this railway question might be profitably raised by the government. In case such a commission were raised to take the general supervision of this question, I should like to know what powers you think it would be proper to give that commission.

Mr. FINK. My suggestion would be for the present that you give them no power except the power to inquire and find out what are the facts in the case; to investigate the whole subject and report to you their conclusions. I do not think that in the present state of the railroad problem, and with the little knowledge that is possessed on that subject by the people, you can wisely undertake to regulate anything about it or give a commission any positive power of any sort. You do not know what requires to be done; you have no definite complaints before you; you do not know what the evils are for which you seek to provide a remedy. You hear nothing but these general assertions that everybody has not got his own way in the management of the railroads, for that is all these general charges amount to. Now, let us first try to come to the real facts of the case and ascertain what are the real evils; then let us try to discover the causes of those evils, and then we shall be prepared to adopt some plan to remedy them. This, it appears to me, is the course and the only true course for you to follow as the case stands at present. The commission should have no power to take any positive action. It should be a mere commission of inquiry.

Mr. WHITE. Please tell us what is the present status of the commission of which you are president, and what are the duties of that commission as distinguished from the other commission of which Mr. Thurman, Mr. Washburne, and Judge Cooley are members?

Mr. FINK. The gentlemen you name were appointed for a special purpose, namely, to hear the complaints and views of the representatives of the three great seaboard cities which have been wrangling for years about the adjustment of rates, and the railroad companies have helped them in that wrangling. The object of that commission is to have that whole subject fully investigated and all its features brought out, so as to ascertain what reason, if any, there is in the complaints that these localities make, in order that the public may know whether there are good grounds for these complaints and contentions, and, if so, that a remedy may be provided; or, if there are none, that the people may know they have no right to complain. That is the only object of that commission.

Mr. WHITE. Then they are to act as mediators between the railroad managers and the people.

Mr. FINK. Rather they are employed for the benefit of the people themselves, because the railroads have agreed on that subject and know pretty well what to do about it, but the public does not know, and this commission was appointed to bring out the facts, and if they are able to devise any means by which to make the public better satisfied they are to suggest those means, and no doubt the railroad companies will adopt them. That commission is to mediate between the people of these differ-

ent cities, as it were, rather than between the people and the railroads, because it is the people that wrangle and contend among themselves, each city claiming that which it thinks it ought to have, regardless of the rights of others; and it is hoped that the commission will be able to put the matter in a clearer light so that the people may understand that everybody cannot reasonably expect to have everything his own way.

Mr. WHITE. What is the status of the commission of which you are president?

Mr. FINK. I have already tried in a general way to explain the object of that commission. It is to carry on the government of these forty roads of which I have spoken, and make them act as one road in the matter of regulating the tariffs. Instead of each one acting independently, which has been the cause of all these evils of which I have spoken, the roads are to control their property jointly so far as the tariffs are concerned. The commission goes no further than the mere regulation of the tariffs and the carrying out of those tariffs made by these forty roads, and I am the executive officer of what I may call the government created for the purpose of regulating this tariff question in the interest of the roads, and making the tariffs at the same time satisfactory to the people. Of course, in all governments when there is a disagreement between the members there must be some tribunal to adjust the difficulty, and for that purpose there has been appointed by these railroads a commission of three members to decide questions upon which the parties cannot agree among themselves so as to prevent further strife among the roads. That is the simple object of this commission.

Mr. TOWNSEND (in the chair). The railroads pay the salaries of the commissioners by a contribution among themselves, I understand.

Mr. FINK. Yes, sir; each road contributes in proportion to its share of the general through business.

Mr. WHITE. That commission, as I understand, was devised and appointed by the railroads themselves to settle the railroad wars.

Mr. FINK. Do you mean the present advisory commission, as we call it—the commission that is to settle the questions between the three great seaboard cities?

Mr. WHITE. I mean the commission of which you are president.

Mr. FINK. No; that is a permanent commission.

Mr. WHITE. I understand you to say that those commissioners were appointed to settle the railroad difficulties, and I understand that they have settled them.

Mr. FINK. That commission was appointed, I might say, to give an organization to a mob. Heretofore the railroads have been more like a mob, each doing as it pleased. They have come together from time to time and agreed to make a joint tariff, so that a man in Chicago should pay so much whether he shipped by one or another of the through lines, and that a man in Indianapolis should not pay more than a man in Chicago, in proportion to distance, and that the rates from Saint Louis to the seaboard should be regulated according to the distance—they have come together and made agreements of this character among themselves, and then after making the agreement each one would go home and violate it, or do just as he pleased. That has been heretofore the practice in a great measure among the railroads. Of course it has not been always as bad as I am stating it, because there have been periods when they have got along pretty well under these agreements, but the difficulties of the situation have increased from year to year, growing more and more complicated, until there were so many railroads and so many interests involved that it was found to be utterly impossible for them to go along any further upon that plan. They had lost all confidence in these agreements and in each other, so that when they met their meeting was only a sham to get up the rates somewhat, so that each could go home and cut under. They did not trust each other any more. Now I do not wish to be understood as saying that this was the fault of the railroad companies. It was the fault of the principle upon which they operated, the fault of the kind of competition practiced among them, which brought about these results. Each road, of course, wants to get all the business it can, that is understood, and the result has been a continual state of war between them, and in war we are told everything is fair; even great generals get up *ruses* to deceive the enemy. The railroads having carried on this kind of war with each other for many years, lost all confidence in each other and found that it was impossible to continue in that way any longer, and then the question presented itself, "How is this railroad property to be managed? It is going to the bad every day more and more, and we must have a change." The difficulties of 1877, with which you are all familiar, resulted from this kind of competition and brought about the railroad riots which were of a most serious character. Those riots were the result of the operations which I have described. The people did not pay to the railroads the "cost of the service." The railroads could not coin any money, so that they were unable to pay their employes and had to starve them, until those poor people could not stand it any longer, and I do not blame them for it. Of course they had no right to get up riots and destroy property as they did, but I say there was provocation for it. Now, it was to remedy this state of affairs that the railroads consulted with each other and said, "Let us come together like sensible men and make an agreement that gives us just compensation for our services, and see that it is carried out"; and it was as a means of providing for the

carrying out of the agreements of the railroads that the commission of which I am a member was created.

Mr. WHITE. And if I understand you, you now propose the appointment of a commission that will enforce the agreements as perfected among the railroads themselves by this advisory commission of which you are president?

Mr. FINK. No; that is not the idea. Our commission is not an advisory commission; it is a permanent body.

Mr. WHITE. But it has no power to enforce the agreements which the railroads make?

Mr. FINK. It can only enforce the agreements by the voluntary consent of the railroads. We have no police, of course, and we cannot put a man in jail if he does not obey our decisions, and what I want you to do for us, if anything at all is to be done, is to remove that defect. If you want to regulate the railroads just give us power to punish any railroad man who violates his agreement, and then the whole question will be settled. As the business has been conducted heretofore, whenever a railroad manager thought he could do a little better for his railroad by making lower rates he would do it, and of course that kind of competition can result only in one way: This cutting of rates by the railroads reminds me of a story that is told of a contribution made by a Jewish congregation to their rabbi. They met and agreed to make him a present of a barrel of wine, each man to contribute a bottle. The barrel was provided, and each contributor brought his bottle and poured it in, but when the rabbi opened the barrel he found nothing in it but water. Each contributor thought that he might put in a bottle of water without its being discovered, and as every one acted upon the same idea there was nothing but water put into the barrel. So it has been with these railroad agreements, each party thinks he can steal without discovery, so they all steal, and the result at last is that the stockholders have nothing but water. [Laughter.]

Now, I have described to you the difficulties of the railroad problem, and the reason why this commission was established to form a government for these roads by which they could be controlled in carrying out their agreements. For that purpose it was found necessary to establish a permanent office with an executive officer, and that is my position. The railroads come together and make agreements, and I am to see that those agreements are carried out, with what little power I have. I have merely the power of persuasion, and whatever little moral or personal influence I am able to exercise over the parties, and that is all; but still we have got along pretty well for the last four years even with that.

Mr. WASHBURN. You stated, I think, in reply to some question by Mr. Reagan, that in case the Reagan bill, or more especially the fourth section of it, should be made a law, the railroads could not be operated successfully.

Mr. FINK. That is my belief.

Mr. WASHBURN. You meant, I presume, that they could not be operated as through lines.

Mr. FINK. I meant that they could not be operated to the advantage of the people and of the railroad companies themselves. Of course they could be operated in some way. You can always run an engine over a road and haul a few tons of local freight, but that bill would break up all the through traffic on the railroads by excluding competition.

Mr. WASHBURN. You meant that if the railroads were deprived of the privilege of taking through business except on the terms provided in the fourth section of the Reagan bill they could not continue to do that business, because the corresponding reduction on the local rates would be such that it would be impossible to go on operating the roads?

Mr. FINK. No, I had no reference to the local rates. I confess that until I heard Mr. Reagan's explanation here I did not suppose that he really understood the full purport of his bill. I had examined the bill and considered its effect, but it was only when I heard the discussion between Mr. Reagan and Mr. Blanchard here the other day that I discovered that he really meant to do what the bill provides shall be done, namely, that each road shall have a fixed rate for the the same article of freight and shall not vary from that rate in the least degree. Now, if that plan is adopted it will work in this way. From Saint Louis, or Chicago, or any of the great competing points where there are now five or six competing lines, there will be practically only one line at a time doing this through business; for, as I explained yesterday, the rate by every line will be different, and some one line must necessarily have the lowest rate, and that line will take all the business until it is full, and then the line with the next lowest rate will come in, and so on. The rates of the different lines must necessarily be different, because in each case the through rate will be the sum of the local rates of the roads forming that line, and nobody knows or can know what those rates will be. Under the present system we adopt the rules that the rates from the several cities shall be adjusted upon the mileage basis; the principle of distance is adopted by the railroads in this particular case, and it is quite proper that it should be. Therefore, if Chicago is 1,000 miles from New York, and Saint Louis is 1,100

miles, the rates for the two cities will be in the proportion of 1,000 to 1,100; and so on throughout the whole country.

Mr. WASHBURN. I do not think that you catch the idea in my question.

Mr. FINK. I will come to it directly, I think. Now, the effect that Mr. Reagan's bill will have if it becomes a law will be to make from Saint Louis, for example, just as many rates as there are lines of road, so that the whole through business of Saint Louis will first be concentrated upon the line which has the lowest rate, and then when that is full it will go to the second, and then to the next lowest. The trans-action of the business will not be actually prevented, but shippers will have to pay different rates by different lines, and there may be one hundred different through lines from each great city; so that the very thing that Mr. Reagan proposes to prevent, namely, unjust discrimination in rates, will be enacted by this law, and people will no longer be able to ship from Saint Louis or any other competing point at a uniform rate by different roads. Now, as I have said, that will not interfere with the actual carrying of the business, but its effect will be that the roads that have the highest rates will be excluded from the through business altogether.

Mr. WASHBURN. Would it not interfere with the actual carrying of the business in this way. Take my own city, Minneapolis, for example, from which a very large amount of flour is shipped. During the last season the rate on flour was as low as 50 cents a barrel from Minneapolis to New York. Now, under the operation of the fourth section of the Reagan bill would it be possible for the railroads to go there and take that business at all.

Mr. FINK. No, it would not, because their through rates would be based on the sum of the local rates.

Mr. WASHBURN. And the result would be to throw them out of that through business entirely?

Mr. FINK. Certainly. Where there are water-ways the railroad could take no business, but where there is no water-way of course the business must go by the railways if it goes at all, and under the operation of this bill it could no longer go by the railways at a rate adjusted with a view to competition with other transportation lines. Under such a law the Indianapolis rate might be much lower or much higher than the Chicago rate. In fact, nobody can tell how the rates would range; it would be all confusion.

Mr. WASHBURN. And a through railroad from Chicago would better drop that Minneapolis business entirely and maintain its local rates than bring the local rates down to a point which would enable it to do the through business.

Mr. FINK. That is what the railroads would always do.

Mr. TOWNSEND (in the chair). I understood, when you said yesterday that the roads could not be operated under this bill, that you spoke in a qualified sense, meaning that they could not be operated successfully or satisfactorily.

Mr. FINK. I meant to say that they could not be operated so as to be of any benefit to the people of the country; that their whole usefulness would be destroyed, and the commerce of the whole country would be disarranged. I do not believe that these very people who come from New York, and ask for the passage of this Reagan bill, have ever read it or know what the bill really means. If you were to speak to a New York merchant on this subject, and ask him whether he proposes to hamper the railroads, as this bill proposes, on their through business, he would hoot at such an idea.

The fact is, these gentlemen do not understand the provisions of this bill, but they are ready to indorse anything that looks like an attack upon the railroads, because they want to get a starting point so that they may get control of the roads. Almost anything will do for that, so they reason.

Mr. WHITE. What proportion does the local business bear to the through business, and which would the railroads be most like to throw up if they were compelled to choose between them?

Mr. FINK. The proportion differs on different roads. On some of the roads the through business is one-half, and on others it is less. But the roads would have to throw up the through business in all cases, because they could not reach it under the operation of this bill.

Mr. WHITE. I understood you to say a while ago that they would have to throw up the one or the other as the result of the passage of this bill.

Mr. FINK. Yes; but they would nearly all have to throw up the through business in a great measure, and some of the roads would have to give it up entirely.

Mr. TOWNSEND (in the chair). You mean that they would be obliged to charge such rates on the long haul as to practically exclude them from the through business?

Mr. FINK. Yes. For example, when the rate from New York to Buffalo had once been established they could no longer touch the through business from Memphis or Minneapolis or other remote competing points where water transportation fixes the rate, and if they have to get out of the through business, of course they must increase their local rates wherever they can, though sometimes the local rates are beyond their control, being governed by other considerations. That is a point on which there is a great deal of misapprehension. People say sometimes that the railroads can charge just what they please but the fact is that in many cases if they charge more than a

certain just rate they can no longer do the business. The rates are governed by other considerations than the will of the railroad managers.

Mr. WALKER. Was it you or Mr. Blanchard who alluded to the draft of a bill that Mr. Charles Francis Adams had prepared?

Mr. FINK. Mr. Blanchard, I think, referred to that bill.

Mr. WALKER. Have you read the bill?

Mr. FINK. I have.

Mr. WALKER. Do you think that it will cover the ground which you suggest ought to be covered by any legislation at this time?

Mr. FINK. If you want to do anything at all in the way of legislation that bill will do very well.

Mr. WALKER. That bill simply proposes a commission of inquiry, I understand?

Mr. FINK. That is all, and that is my recommendation to you which I made at the beginning of my argument.

Mr. WALKER. In the last Congress the bill that was understood to be Mr. Adams's bill involved something beyond a commission of inquiry.

Mr. FINK. Yes; that is the Henderson bill, which, I think, was very like the Reagan bill with some of the objectionable features taken out, making it nearly inoperative—neither the one thing nor the other.

Mr. WALKER. But the Adams bill as now offered proposes a simple commission of inquiry, I understand?

Mr. FINK. It proposes not a commission of inquiry, but a permanent commission. I suggest to you, in the first place, the appointment of a commission of inquiry merely. Let that commission investigate and report to you whether it is necessary to have a permanent commission. And while we are on this point, let me say that these commissions are very excellent things theoretically, but their good result depends altogether upon the material of which they are composed. The committee of inquiry that was appointed by the New York legislature sat for several months and took some 4,000 pages of testimony, and when they got through they knew just about as much as they knew before, or perhaps a little less. They brought out a vast number of facts and instances of the "terrible abuses" committed by the railway companies, but they did not understand at all the relation of those facts, the whys and the wherefores. They had no expert on their commission; they were appointed for a political purpose, and they had to report some sort of bill to justify their existence; and after they had sat for seven months and taken this vast amount of testimony, the wise conclusion they came to was to recommend the appointment of a commission, which they could have done without any inquiry at all. But they came to another conclusion. They had to have something to show for the time and money they had spent, so they proposed a bill by which the New York Central road would have been affected pretty much as the Erie would be by Mr. Reagan's bill. That was the grand result of that prolonged and expensive inquiry. If I had time I could take the report of that committee and show you the singular way in which the investigation was conducted, and the absurdity of the conclusions as contained in the so called "pro rata bill." Now, we do not want any such inquiry as that. If you should determine to provide for the appointment of a commission, either a temporary or a permanent one, you must put upon it men of the highest order. I was struck with the manner in which Senator Thurman and the other gentlemen associated with him on the present temporary commission took hold of this question the other day. You want men of that class for your commissioners, and you want not only men of that class but also railroad experts; men who know something about the business, and who know, to begin with, what inquiries to make. If you take three or four or ten men unfamiliar with the subject, to make an inquiry of this sort upon a subject as complicated as I believe I have convinced you this railroad problem is, they do not know, in the first place, what to inquire into, and it will take them some years to learn what they are to inquire into and how to go about it. I wish, therefore, to impress upon you the fact that these commissions have two sides to them. They may do good or they may do harm. The New York committee, for instance, has done the greatest harm by bringing out and spreading broadcast over the country incorrect reports in regard to railroad management and the relations of the railroads to the people. I could take the report of that committee and show you how little the investigators knew about the subject after they had studied it for seven months, but I have no time to do it.

Mr. CANDLER. What do you think of the railroad commission in Massachusetts?

Mr. FINK. That is the pattern commission, but its good results are due to the good material of which it was composed.

Mr. CANDLER. You think, then, that that was a good commission, and that its labors were satisfactory to the railroads and beneficial to the community?

Mr. FINK. Thoroughly so.

Mr. CANDLER. If that is the case, why would not that be a good example for the general government to follow? If such a commission has proved to be welcome and serviceable to the people and the railroads of a State, why cannot a good commission on the same plan be equally serviceable to the whole country?

Mr. FINK. It can; a good commission can; and, as I have said, it is very desirable to have such a commission appointed, because much of the difficulty and the dissatisfaction existing between the railroads and the people is due to the ignorance and the misinformation of the people in regard to the real facts. They have been told so much by these agitators about the wrong doings and outrages of the railroads that they have come to believe it all. Now, I know that the people do not want to do wrong; they want to do what is right and just, but they need light on this subject, and if such a commission were appointed and could come forward and show the true relations which the railroads sustain to the community at large, and the true principles which should govern their management, it would do immense good.

Mr. CANDLER. If a United States commission should, after due inquiry and deliberation, make a public statement that a railroad or a combination of railroads was working unjustly or to the disadvantage of the people, even if there were no law and no power of enforcing a penalty, do you not think that public opinion would hold that railroad or combination of railroads to such an accountability that they could not face it?

Mr. FINK. Most certainly.

Mr. CANDLER. Then why is not one of the most important things to be done the appointment of a commission composed of intelligent, upright, and honorable men, which, when it made any such statement in regard to any railroad or combination of railroads, would create a public opinion that would of itself have all the force of law?

Mr. FINK. That is what we desire, the appointment of such a commission. But, as I have said, if you determine to appoint a commission, let it be composed of the right kind of men.

Mr. CANDLER. Certainly. We want good presidents and we want good commissioners.

Mr. FINK. I have been in New York for four years at the head of these associated railroads, and any complaint that comes to me is a proper subject for investigation. The people in New York, or in any other place in the country, who think themselves injuriously affected by the railroads included in that association, can come and make their complaints to me, and I am bound to tell you that I have never yet had the first complaint. There are applications made from time to time of changes in classification or in rates upon some single article, and they are promptly attended to, and if the requests are reasonable they are always complied with. These very people in New York, who make all this fuss and scatter this misinformation and misrepresentation all over the country, the people who say that the railroads have extorted and are extorting enormous sums from the community, even they have never come to me for the redress of a grievance of their own, because they have none and can have none.

At the conclusion of Mr. Fink's argument, Mr. Townsend (in the chair) stated that the chairman had requested him to announce that the hearing on this subject would be closed at 12 o'clock to-day.

Mr. U. H. PAINTER. The committee promised Mr. Depew, of New York, that he should have an opportunity to be heard in reply to the attacks which have been made here upon him and upon the road that he represents.

Mr. TOWNSEND (in the chair). Mr. Depew was notified that the hearing was to close to-day.

Mr. PAINTER. But Mr. Depew has not yet had an opportunity to see the matter to which he desires to reply. It has only just come into the hands of the clerk of the committee. I have looked at it, and I find there some twenty pages filled with an attack on the New York Central Railroad Company, which Mr. Depew represents, and also upon Mr. Depew personally. He has been trying for ten days to get a copy of that matter, in order that his reply may go on record with the attack. He came here and remained two days, seeking an opportunity to examine these charges and to make his reply, but he was unavoidably called away last evening, and it seems to be only fair and proper that he should have an opportunity to meet these attacks before this hearing closes.

Mr. CANDLER suggested that a meeting might be had on Monday next to give Mr. Depew and ex-Governor Brown, of Tennessee, a hearing.

Mr. PAINTER. I do not think Mr. Depew could possibly be prepared to make his reply so soon. He requested me to state to the committee that he understood that these parties had stated several specific cases of complaint, and that he would like to have two or three days to consult with the officers of the road at the places where these alleged grievances or outrages are said to have occurred. He probably will not occupy very much of your time, but he does not want to have these attacks upon him and upon the corporation with which he is connected go into your record without a reply. He said that if the committee were willing to strike that matter from their record he would be content to take no notice of it, but otherwise he would claim the right to reply.

On motion of Mr. Washburn, the committee decided to hold a meeting on Saturday, March 25, to hear further arguments on the railroad question.

Adjourned.



UNITED STATES SENATE COMMITTEE ON LABOR AND EDUCATION.

TESTIMONY OF ALBERT FINK.

NEW YORK, SEPTEMBER 17, 1883.



TESTIMONY
OF
ALBERT FINK

BEFORE

U. S. SENATE COMMITTEE ON EDUCATION AND LABOR.

NEW YORK, *September 17, 1883.*

The committee met at 10 a. m.

ALBERT FINK sworn and examined.

By the CHAIRMAN:

Question. Your residence is in this city?—Answer. In New York City; yes.

Q. You were born in Germany?—A. Yes; I was born and raised in Germany.

Q. You have been in this country many years, however?—A. About 34 or 35 years.

Q. What is your profession?—A. I was educated as a civil engineer.

Q. Did you acquire your profession in Germany?—A. Yes; I was educated at the Polytechnic Institute at Darmstadt.

Q. You may state what you have done since you came to this country, in the exercise or prosecution of the duties of your profession?—A. I was first engaged on the construction of the Baltimore and Ohio Railroad from Cumberland to Wheeling as an engineer in 1850, and my special duties were then to design and superintend the construction of the bridges and buildings. I made that a specialty for some years. Then I was engaged in the construction of roads in the West—in Western Virginia—in the extension of the Baltimore and Ohio road to Parkersburg, as engineer in charge of construction. After that I was engaged on the Louisville and Nashville Railroad, also as engineer on the construction of the road. I remained with that road for eighteen years. After the road was completed I became connected with the management of it in charge of the road and machinery department, and finally I became its general manager and vice-president. After that I was called to my present position.

Q. That was about how long ago?—A. About six years ago.

Q. Since then, have you been in the same position that you now occupy?—A. Yes.

Q. What is that?

NECESSITY FOR CO-OPERATION OF RAILROADS.

A. I am the head of a bureau established by a number of railroads—about forty—which are endeavoring to work together in all matters which require co-operation, for example, and particularly the establishment and maintenance of uniform tariffs; that is the principal object for which the bureau is established. The railroad system has become so extended and the business relations of so many roads to each other have become so complicated that it became necessary that there should be organized co-operation. The tariff of one road influences the tariff of many others. It would not do for so many companies to operate each road separately from the other. They have to arrange with each other to form connections, to establish through lines of transportation and tariffs for such through lines. It is a very complicated question, to make these tariffs uniform on many competing lines, and to arrange them so that they bear equally upon different localities, and to avoid unjust discrimination, and it is still more difficult to see that the tariffs properly established over so many roads are maintained alike to all shippers receiving like service. To accomplish this is the object of the Bureau, which is established in the interest of the public as well as in the interest of the railroads. It is a union of railroads for the purpose of conducting the transportation business in a business-like way and in the best interest of the public and the companies.

The commercial management of railroads has become very much complicated by the great number of competing roads. If there was only one road or if all the roads belonged to one company it would be comparatively an easy matter to manage the tariff question, but when there are so many roads, each operated separately, having separate interests, there would be nothing but confusion and chaos as far as the tariffs are concerned.

Q. How many roads are there?—A. I suppose there are upwards of twelve hundred roads, even counting many roads that have been consolidated as one road.

THE ASSOCIATION OF ROADS EAST OF CHICAGO.

Q. You said there were about forty roads in this association composing the bureau of which you are the head. Will you mention the particular lines?—A. There are the five trunk lines—the Grand Trunk of Canada, the New York Central, the Erie road (or the New York, Lake Erie and Western, as it is now called), the Pennsylvania road, and the Baltimore and Ohio. These are the main lines. Then come their connections—the Lake Shore, the Michigan Central, the New York, Pennsylvania and Ohio—in fact, all the principal east and west roads as far as the Mississippi River, and as far as Chicago, and as far as the Ohio River—all the principal roads in that territory—the Cleveland, Columbus, Cincinnati and Indianapolis, the Indianapolis and Saint Louis, the Vandalia, the Ohio and Mississippi, the Pittsburgh, Fort Wayne and Chicago, the Chicago, Saint Louis and Pittsburgh, the Indianapolis, Bloomington and Western, the Lake Erie and Western, the Canada

Southern, the Boston and Albany, the Fitchburg, the New York and New England——

Q. The Grand Trunk of Canada, is included?—A. The Grand Trunk is one of the roads; yes, sir, and a very important one.

Q. With all its connections?—A. Yes. They have a road to Chicago. Their main road runs from Chicago to Portland, Me.

Q. This combination or association, if I understand you correctly, does not include any roads west of the Mississippi, or at least none west of the Missouri?—A. None west of the Mississippi. West of Chicago they have separate organizations of the same nature. They also have a similar organization in the South. These associations are formed pretty much on the same plan and for the same purpose.

Q. These are the roads that naturally take the produce from the interior of the country to the Atlantic seaboard?—A. Yes; east and west roads. There is a system of roads between the Mississippi and Missouri Rivers, and others, running north and south. They are separately managed.

Q. By a like combination or association?—A. Yes, as far as rates of transportation are concerned.

Q. As to this association of which you are the head, what are the principal westerly points and connections of your roads, and what are their principal points of outlet on the Atlantic seaboard?—A. The principal points west are Chicago, Saint Louis, Cincinnati, Indianapolis, Toledo, Detroit, Cleveland, and other intermediate points. The eastern outlet is the Atlantic coast from Portland, you may say, to Baltimore, including Boston, New York, Philadelphia, and Baltimore.

Q. Would it include the outlet of the Chesapeake and Ohio?—A. They have an outlet here at these points, also one at Newport News, Va., but are not part of the association, although they work together with the association as far as tariffs are concerned.

Q. They abide by the regulations and decisions without being actually bound by them?—A. Yes, they agree to them, but they need not abide by them if they do not choose to do so.

Q. So far as actual results are concerned they are practically part of the association?—A. Practically, yes.

Q. Are there any other lines of importance that carry through products from the interior to the Atlantic coast—is there any outlet for the South—at Brunswick, or anywhere?—A. There are outlets at the South by some railroads, but not very important ones as far as export traffic is concerned. There is a route from the West to Brunswick, Savannah, Charleston, Port Royal, and Norfolk. The Chesapeake and Ohio have their terminus at Newport News. Then there are other roads, besides these I have named, from the West, from Saint Louis and Louisville and Memphis—the Norfolk and Western, the East Tennessee and Virginia, the Memphis and Charleston, called the Virginia Air Line, with its terminus at Norfolk. This is an important east and west road. It is, however, more particularly engaged in the Southern business, the cotton business; it connects with roads to Saint Louis, Louisville, Cincinnati, Memphis, Nashville, and other points, and does business there.

THE ASSOCIATION OF ROADS WEST OF CHICAGO.

Q. West of this system is one lying between the Missouri and the Mississippi Rivers, I understood you to say?—A. Yes.

Q. What is that called, and who is at the head of that association,

and what roads are in it?—A. That association comprises the roads running from Chicago west—the Chicago and Alton, the Rock Island, the Chicago, Burlington and Quincy, then the Chicago and Northwestern and the Chicago and Milwaukee roads.

Q. Who occupies in that association a position similar to yours?—A. Mr. J. W. Midgley.

Q. Further westward, what are the principal railroad connections? Is there any association among the railroads to the west or south of those you have mentioned?—A. There are associations, called the Iowa and the Colorado Associations, that take in all the roads to Colorado west of Chicago. The same roads that I have named are engaged in the traffic to Colorado, and the same commissioner is at the head of the bureau.

Q. This same Mr. Midgley?—A. Yes, sir.

Q. Then his system takes in the Colorado roads?—A. Not the Colorado roads, but the roads between Chicago and Saint Louis and the Missouri River.

Q. And the roads that reach to New Mexico and Arizona and the Territories?—A. Not the roads as far south as that, but of course it takes in the traffic to those points.

Q. They all feed into and connect with each other?—A. They all compete with each other.

THE SOUTHERN RAILWAY AND STEAMSHIP ASSOCIATION.

Q. What other like associations among railroads exist in this country?—A. There is an association called the Southern Railway and Steamship Association, the first one established upon the present plan. It was established in 1875. It comprises nearly all of the southern roads south of the Ohio and east of the Mobile and Ohio Railroad, and the Atlantic coast.

Q. Mention some of the principal ones.—A. The principal ones are the Georgia Central road, the Georgia road, the Western and Atlantic road, the Louisville and Nashville system, the Richmond and Danville system, the Norfolk and Western, the Memphis and Charleston, the Savannah, Florida and Western, the East Tennessee, Virginia and the Georgia system. These are the principal roads.

Q. Does this system cover the Mississippi Valley?—A. No; it does not reach the Mississippi Valley. There are some other roads in that territory east of the Mississippi; they run north and south. They have no joint interest with the other roads which are east and west roads—such as the Illinois Central and the Mobile and Ohio.

Q. Under what system or arrangement, if any, are those roads you now mention comprised?—A. They are not under any particular system. There is no organized system under which they operate; they co-operate with each other. There are only two or three roads, and it is an easy matter for them to co-operate without any organization.

Q. Then to recur to this system of the South, of which you have been speaking, which was organized first of any, and in 1875, under what gentleman having the same powers or like powers to yourself were these roads organized?—A. The organization was made after I left the Louisville and Nashville Railroad. I had then been connected with the Southern system of railroads, and there was so much confusion and strife in regard to the establishment and maintenance of tariffs that it was utterly impossible to conduct the transportation business in a proper way. It caused a good deal of ruinous competition and unjust

discrimination, each road making its own tariffs and underbidding the other. The result was, generally, that the roads worked for almost nothing, or at a loss, and it was almost impossible to control the tariffs. I was then the general manager and vice-president of the Louisville and Nashville Railroad, a road that was in contact with both the Northern and Southern systems of roads—a sort of connecting link between these two systems, and I had to do business with between fifty and sixty different roads, and when it was desired to make an agreement of any kind the parties could not be got together, and when some of them came together others were missing, and nothing could be done. But if they should all happen to come together they could not agree, or if they did agree there was no organization or executive department to see that the agreements were maintained. This state of affairs led me to suggest the plan of an organization of railroads with a central bureau through which the different roads could readily transact business with each other, instead of so many roads endeavoring to do business separately with one another, making it almost impossible to accomplish anything. All these complications were avoided by transacting business through the head of the bureau, who understood the relations of the roads to each other, and knew what was required, and through whom the roads could communicate with each other, and negotiate on all subjects requiring co-operation. The representatives of the roads would hold meetings and discuss matters. If they could not agree, the head of the bureau was to decide the questions at issue, and act as the executive, it being also his duty to see that the agreements were carried out. In this way the roads would be enabled to transact business promptly and to establish uniform tariffs and to see that they were maintained. This is the object of this and like associations. They are in the nature of clearing houses, where the parties, instead of settling the money balances, settle their differences and their little quarrels (or their big quarrels, as the case may be). A definite way is provided in which business can be successfully transacted. It is simply accomplishing by organization what was ineffectually attempted by a mob under the old system. I made it my special business for about six months to organize the association, and since then it has been successfully carried on by others. The plan has been found to work so well that it has been adopted elsewhere. Mr. Virgil Powers is the present commissioner.

THE PACIFIC RAILROADS.

Q. Please explain to the committee with reference to the railroad systems lying west of the organization which you have described—what they are, if any.—A. West of those associated roads I have mentioned are the Pacific roads.

Q. They are known generally as the Pacific roads, are they?—A. Yes, the Union Pacific and the Central Pacific. Then comes the Texas Pacific and the Southern Pacific. They are now in operation. The Northern Pacific has been added lately.

Q. And the Atlantic and Pacific?—A. The Atlantic and Pacific is another one, connecting with the Southern Pacific.

Q. Is there any association or practical plan of operation existing between these roads, or any of them?—A. There is no association between them—no organized association, although they are working together under some agreement regarding tariffs.

Q. All these three lines to the Pacific have some understanding as to rates, etc., among themselves, by which they abide?—A. Yes.

Q. Do you include the Northern Pacific?—A. No; they have only just been opened; they will be included, no doubt, in the course of time.

Q. If there is no organization, who are the men that substantially control those Pacific roads and harmonize their interests by these agreements between themselves?—A. In the first place, the presidents of the roads; but they do not pay much attention to the practical details. These are left to the general superintendents or traffic managers of each road; who make arrangements, under the direction, of course, and subject to the approval of the presidents of the roads.

Q. Have you now in a general way outlined the entire railroad systems of the country?—A. I have mentioned the main systems. I should have mentioned the southwestern system, comprising the roads west of the Mississippi River to the Gulf—the Texas and Arkansas and Missouri roads.

THE WATER ROUTES OF TRANSPORTATION.

Q. Will you now mention the water-routes, whether by river or canal connection, that have to do the transportation of the country, either by connection with the railroads themselves or otherwise?—A. The principal water-lines engaged in the East and West traffic are via the lakes and the Erie Canal in the North, and the Welland Canal in Canada. The Mississippi River to New Orleans forms another important water-line.

Q. How important is that water-line in connection with the transportation interests of this country?—A. The water-lines that I have mentioned are very important factors in the transportation business of the country. They not only secure cheap transportation themselves, but they have the great advantage of regulating the railroad tariffs.

Q. Please explain how that is; that the water-lines regulate, or can regulate, the railroad charges.

HOW THEY ACT AS REGULATORS OF RAILROAD CHARGES.

A. The cost of transportation upon the water-routes being cheaper, the railroads have to carry freights as cheaply, or nearly as cheaply. They can only increase their charges over the charges made by water-routes to the extent that they offer additional advantages; while somewhat higher rates can be charged by the railroads, the basis of their charges are the charges made by the water-lines. If they charge more than a certain amount above the water-rates, the business would all go by water. Not only is this the case where railroads come in direct competition with the water-routes, but the effect of these water-routes upon the rail transportation rates is felt throughout almost the whole country. This is the result of the great competition between the railroad companies themselves. As to the Erie Canal and Lakes, the railroads that directly compete with those routes between Chicago and New York must conform to the low water rates; but it is also necessary that, say, for example, from Indianapolis, which has no water connection with New York, the rates should be made upon the same basis as the Chicago rates—that is, the same rate per ton per mile, or nearly so.

CHICAGO RATES THE BASIS FOR RATES FROM AND TO OTHER WESTERN POINTS.

That rule is almost a fixed rule now, adopted by the railroad companies; that whenever the Chicago rates are lowered the rates through-

out the whole territory east of Saint Louis, Louisville, Cincinnati, Peoria, Columbus, etc., are lowered proportionately. There are so many roads that run from those points direct to the East, under independent management—they want a share in the business of the country. If they were to try to exact proportionately higher rates, say from Indianapolis or Saint Louis, than from Chicago, there would be enough margin left between the Saint Louis or Indianapolis rate and the Chicago rate to New York that freight could be sent from Indianapolis to Chicago, and then by railroad or canal from Chicago to New York. In order to prevent this the railroads that run direct from Indianapolis, Saint Louis, etc., to the East make the rates so low that the business must go over their roads, and cannot go to Chicago. While the water-routes only exist between Chicago and New York, the effect upon transportation rates is felt all over the country by reason of the competition between the railroads.

NOTWITHSTANDING COMBINATION, RATES ARE FIXED BY COMPETITION.

No combination of the railroads can suppress this competition. It could only be done if the railroads were all owned by one party and were operated in one interest. But as it is they have all separate interests, and each one guarding its own interest keeps up this competition, and even in agreeing between themselves upon rates, those rates are fixed by competition. This unfortunately, is not understood by the public. It is generally believed that when competing railroads agree upon uniform rates, that this excludes competition. This is not the fact. The effect of water competition is not only felt in the territory east of the Mississippi and Ohio Rivers, but is felt south of the Ohio River. For example: The low rates from Louisville, under the influence of the Chicago low rate, are felt at Memphis, Nashville, and farther south. Freight from Memphis is shipped to Louisville and gets a low rate from there, and the people of Nashville and such places get as much advantage from the low rates as if really located on a water course; so that the influence of the water transportation is felt almost throughout the whole country. That is the influence of the Erie Canal. To the south there is the water-route from New York to New Orleans via ocean, and from New Orleans freight is carried to Memphis and Saint Louis and the West via the Mississippi. In order to meet these low rates, the east and west roads from Louisville and Memphis or from Memphis to Norfolk east have to conform again to the low rates made by the Atlantic Ocean and the Mississippi River.

Q. That has reference to goods from east to west, as well as from west to east?—A. Both ways. In this way the water-courses are really regulating the railroad transportation rates throughout, you may say, the whole country. Of course the low rates from here to the Mississippi River are enjoyed by the people west of that river. Rates generally are higher west of that river, but the people west of the river get the benefit of the low rates east. In many other ways the water-routes help. The Ohio River, the Tennessee River, and the Cumberland River affect the railroad rates at the interior. There is plenty of competition that regulates the rates and keeps them at an exceedingly low figure.

NO COMBINATION PRACTICABLE ON WATER-LINES.

Q. Will you please state how it is that there can be no combination of transportation interests by water as well as by land? Why can there

be no combination so as to put up water rates as well as land rates?—A. It is hardly possible. The competition is only between canal-boats or steamboats; the water-ways are free to all. If any one boat or a combination of boats should try to charge too high rates, it would require a comparatively small capital to start new boats.

Q. I suppose that combination would be possible if the lines of steamers and canal-boats were under one or two or three ownerships, just the same as by land-routes. Is not that so?—A. No; that could not be, because it is an easy matter to put on additional steamboats.

Q. It is easier to put on another vessel than to build a railroad?—A. Yes.

Q. That is the reason why competition can be established at so much less expense by water than by land, is it not? That is the reason combination is not possible over the water-routes?—A. Yes; I mean combinations for the purpose of charging excessive rates. Nor is it possible for railroads to combine for that purpose, because, as I have shown, the railroad charges are controlled by the charges on water-ways. The water-ways are free; nothing is paid for their use, and it requires very little capital to start competing steamboat lines. I may remark here that this competition between steamboats or water-ways is practically also restricted. For example, certain lines of steamers really control in a measure the river or lake transportation. Take, for example, the Hudson River, or the lake, and you will find that there are certain established regular lines of steamers. When a new line comes in, of course the old lines try to work it out, and make rates very low, and destroy it if they can. By that means, in the course of time, only one or two regular lines survive, and they carry the business. This is rather a benefit to the public, because the public have responsible parties to deal with instead of dealing with a great many irregular lines. These lines, however, can only charge reasonable rates, otherwise they would invite new competition, and it is the fear of that competition that keeps the rates within very reasonable limits.

COMBINATION OF LAND-ROUTES WITH WATER-ROUTES.

Q. What tendency is there to combination between the capital invested in water-routes and in land-routes—that is, between the railroads and the water-lines?—A. There are certain arrangements by which railroads run in connection with steamship lines.

Q. I mean as to unity of ownership and interest, as, for example, in the case of railroads purchasing water-lines, so that they may control the rates of both?—A. The Pennsylvania Railroad owns a steamship line from Erie, Pennsylvania, to Chicago. They have control of what is called the Anchor Line. The New York, Lake Erie and Western Road owns a water-line absolutely—the Union Steamship Line—running between Buffalo and Chicago. There is another steamship line between Buffalo and Chicago, that, while not owned separately by a railroad corporation, runs in connection with the New York Central Road. All these water-lines, while working with the railroads, are subject to competition, and their rates must be as low as by other water lines.

Q. The only continuous, uninterrupted line from the West to the East is by way of the Mississippi River and the Atlantic Ocean, is it not—the Erie Canal being frozen for a part of the year?—A. Yes. Sometimes navigation on the Mississippi is interrupted by low water, and sometimes by ice north of Cairo.

Q. But that is quite temporary, is it not—for a month or so?—A. Sometimes for a couple of months, and sometimes longer; and during some winters not at all.

Q. Do those interruptions come when the Erie Canal is closed or otherwise?—A. The interruption by ice comes during the time the Erie Canal is closed. In some years, however, there has been no interruption by ice. The low water generally comes during the summer months, when the Erie Canal is open.

WATER TRANSPORTATION THE REGULATOR OF RAIL RATES.

Q. The real water regulator of the prices of fares and freights is the Mississippi River and the Atlantic Ocean, is it not?—A. And the Erie Canal.

Q. But the Erie Canal is liable to interruption?—A. During the interruption of navigation the Erie Canal still influences rail rates, although during the winter months the railroad companies are able to charge higher rates.

Q. Would they not be able to get still higher rates than they do but for the Mississippi River?—A. The Mississippi River is another check on rail rates; but it has not been felt very seriously yet in the grain business, however; it makes itself felt more now since the jetties were built at the mouth of the river. Since that time the grain exports from New Orleans have somewhat increased.

Q. I suppose the same is true of cotton?—A. Yes. If the railroads were to make very high rates it would throw more of the business over that route.

Q. You consider the improvement of the Mississippi River as a transportation route very essential to the advantage of the transportation business, do you not?—A. Yes.

RAILROAD RATES COMPARED WITH WATER RATES.

It is the general impression that when the Erie Canal closes the railroads have it all their own way, that the railroads can then charge what they please. This, however, is not the fact, nor would it be if there were no Mississippi River. If the railroads were to attempt to charge high rates during winter time, business men would endeavor to throw most of the freight on the canal during the summer time, leaving the railroads nothing to do in winter. The railroad companies cannot increase their charges over the transportation charges by water more than the advantages are worth which the shippers receive by getting their goods promptly forwarded at all times. That is all the additional charge that railroads can impose, even in the winter time, over the transportation rates charged by the canal.

Q. Still that would make necessary the holding back of the crop?—A. It would, but the railroad companies do not want the crop held back, and they must offer such inducements that will move the crop during the winter season; and they do so.

Q. But are not the necessities of the farmers such as to oblige them to send the crop forward?—A. At present they have become accustomed to sending their crops forward, but before the railroads undertook to carry this low-priced freight the farmers had to hold their crop. Now the advantages of the railroads over the canal are such as to induce them to move the crop, and of course the railroads offer every inducement to them to move it.

Q. I suppose the capital in the grain-shipping business would be able to hold it back in mass, even if the farmers would not?—A. They would bring more in the summer time and store it at the seaboard or store it in the West, and keep it for the opening of navigation. There are seven months of navigation and only five months when there is none on the Erie Canal. I mention that to show that it is to the interest of the railroad companies to give reasonable rates even when navigation is closed.

Q. If there was a disposition on the part of railroads to exact heavy freights, is it a fact that the canal remains open for a sufficient length of time to move, if necessary, nearly all the crop to the seaboard during the closure of the canal?—A. A great portion of it. I suppose the entire crop could not be moved.

Q. There is not capacity enough?—A. No; and then it would not suit to get all ready in the seven months. The canal carries now about from 40 to 60 per cent. of the grain that comes to New York during the navigable season. It carries only about 20 per cent. of the total grain receipts at Boston, New York, Philadelphia, and Baltimore during the year.

THE FIXING OF RAILROAD CHARGES.

Q. Will you explain as fully as you can to the committee the actual *modus operandi* or method by which this association arranges the fares and freights among the different roads—upon what general principles do you act—and, in fact, give us as correct an inside view of its operations and its useful or beneficial tendencies to the general public as you will?—A. It would be very difficult for me to explain fully to the committee the operation of this association; as the committee would have to be in a great measure familiar with many details in the management of this railroad transportation. I can only give, perhaps, a general outline of it. As I said before, the principal object of this association is to establish equitable and uniform tariffs over the roads represented on the committee as far as their competitive traffic is concerned. It has nothing to do with the local business of the roads. When two or more roads come into competition with each other for the same business, then it becomes necessary to have some understanding between these two roads as to the rates that should be charged for the same service. If one road were to charge one rate and another another rate, of course the road that would charge the lowest rate would do all the business and the other could not do any.

Q. That is competition, is it not?—A. Yes, but it don't work well in the transportation business. If there was no agreement as to uniform rates, shippers who would want to ship by one road would have to pay higher rates than shippers by another road. If these rates were kept secret the shipper would not know what the rates of the different roads were, and one shipper might thus get his goods shipped cheaper than the other. That would be unjust discrimination. It has become the practice of all railroads, and I think of all steamship lines, when they compete with each other, to agree upon a certain charge to be made by all routes for the same service, and let the shipper select his own route. That is generally called combination, and it is assumed generally that this combination is made for the purpose of exacting unreasonable compensation. But this is not necessarily so.

Q. That is, as you say, generally called combination, and we hear, under the existing system of transportation, that competition is the natural regulator of fares and freights; and the natural protector of the

interests of the public in that regard. Is not then the direct purpose of this association to prevent that natural competition which is supposed to protect public interests?—A. These associations cannot control the natural and legitimate competition, as I have already stated.

Q. Right there, I wish you would make your explanation as clear and full as possible.

LEGITIMATE COMPETITION DISTINGUISHED FROM RUINOUS COMPETITION.

A. We have to draw a line between legitimate competition that is the life of trade, and competition that results simply in the ruin of the parties that are engaged in the competition. The object of these associations, besides that of giving uniform tariffs, and arranging through tariffs for the whole country, is to prevent ruinous competition. I think the competition between railroads is somewhat different from the competition in other business. Competition between private parties soon comes to an end when prices get so low that they cannot carry on any business. A railroad company, however, can carry on competitive business for a long time at non-paying rates, and either not find it out, or else make the traffic for which there is no competition pay for the losses incurred in the competitive business.

Q. I suppose an instance of that is where they make up on local charges what they lose on the through charges?—A. Yes.

CHARGES ASSESSED ON THE VALUE OF SERVICE.

The proper plan is to assess the railroad charges in accordance with the value of the services rendered. Nobody should ask services for less than cost. The tendency of this railroad competition is, that by one road underbidding the other on the competitive business, the rates soon become so low that the business is worth nothing. They have often carried it, and sometimes carry it yet, at less than cost, and this is not to the advantage of the public. The public can always afford to pay reasonable rates for the service. It is not to the advantage of the public at large to do otherwise, because if you send all these railroad companies into bankruptcy, and thus ruin the people (who are really the owners of the railroads), you ruin the credit of the country, and you ruin the industries that are dependent upon railroads, such as the iron industries and the other manufacturing establishments which furnish supplies to the railroad; you also necessarily reduce the wages of the laborers. When railroads cannot earn any money, the laborers employed on the roads have their wages reduced, or frequently lose their pay altogether. I may refer to the difficulties which arose in 1877, during and after a long railroad war, when so many of the employes rose and "struck." This was the result of low wages or reduced time of labor during the railroad wars.

EFFECTS OF COMPETITIVE STRIFE BETWEEN RAILROADS.

In fact, it is hardly necessary to demonstrate that it is not to the interests of the people to have the railroad companies do work for less than cost; and this would be the inevitable result if they engage in competitive strife (as I will call it to distinguish it from legitimate competition). The nature of the business is such that when one railroad underbids another in order to secure a little more business, as soon as

the other finds out that it has been underbid, it has to underbid its rival still further, and so rates go down and down, until, as in 1881, freight was carried from Chicago to New York (1,000 miles) for 8 cents a hundred. This is a loss of from 8 to 12 cents a hundred in doing the mere work, not to say anything of interest on capital invested.

Q. What is the actual cost?—A. Anywhere from 16 to 40 cents—Chicago to New York. It depends upon what you count in the cost. The mere additional cash cost of moving 100 pounds of freight from Chicago to New York may be estimated at about 16 cents on grain. The average cost of all classes of freight, taking in general expenses, would be about 24 cents; and taking in interest it would be about 40 cents per 100 pounds. I will have to explain this subject more particularly later on, but upon the lowest estimate, the charge of 8 cents, made in 1881, was about only one-half the actual outlay of money, not to say anything about investment. But apart from the ruinous result to the railroad companies, these railroad wars are objectionable as far as public interest is concerned. During these wars each road makes its own tariff without any agreement with its competitors as to uniform rates. It may make changes from day to day in these rates, and the shippers do not know what the charges will be for twenty-four hours to come. One man may have laid in his supplies at the regular tariff, to-day, and in a week from now the tariff is down to one-half of what it was then, and he is at very great disadvantage compared with his neighbor who lays in his goods a little later.

RAILROAD WARS.

The results of these railroad wars are most injurious to all interests' and the shippers understand this well enough. They are most satisfied when they have uniform rates, and when these rates are permanently maintained. Although, strange to say, while they want uniform rates permanently maintained, they also want competition between the railroads; that is to say, they want the railroads to underbid each other. It is clear that they cannot have both peace and war between the railroads at the same time.

OBJECTS OF COMBINATION.

Now, it is for the purpose of establishing uniform tariffs, and to maintain the same without great fluctuation, to prevent ruinous wars, and the bankruptcy of railroads, which would necessarily follow, that these railroad associations are established; it being their object to agree upon the proper tariff to be charged, and to have that tariff made known to the public, to prevent railroads from making reductions secretly in these rates, and to make charges alike for the same service. That is the object of these associations. And it is a very important object; in fact, if fully obtained, we would have reached the solution of what is generally called the "railroad problem." In my opinion it is only upon this plan of association, now adopted by many railroad companies in this country, that the evils of the transportation business, heretofore experienced, and of which the people so much complain, can be remedied.

PRUSSIAN SYSTEM—STATE-GOVERNMENT OF RAILROADS.

In Europe, especially in Prussia, this object has been obtained by the purchase on the part of the Government of all the railroads in the country. This puts them all under one control, and enables the Government

to make uniform tariffs and strictly maintain them. This plan, however, could not be followed in this country.

AMERICAN SYSTEM—SELF-GOVERNMENT OF RAILROADS.

Here we must accomplish the same end by voluntary associations of roads under what may be called a self-government. Between the two modes of dealing with the railroad problem, I think the one adopted here is much more suitable to the spirit of our people and the character of our Government. I merely wish to call attention here to the necessity and importance of the work which these railway associations are to accomplish. The difficulties encountered in endeavoring to accomplish this work are as great as its importance. How are some twelve hundred independent railroad companies, each having separate interests, to govern themselves so as to secure to the people, over 120,000 miles of railroads, throughout this immense country, uniform tariffs—tariffs that operate justly upon all sections of the country, justly between commercial communities, between rival cities, and between individual shippers? That is the problem to be solved. It can not be solved by each individual road following its own course and making its own tariffs without reference to the tariffs of other roads. The work to be done can only be done by the joint action of all roads that are jointly interested in the same traffic and that can influence each other's tariffs.

HISTORY OF ATTEMPTS AT JOINT ACTION.

Ever since there have been competing roads, efforts have been made, arising from the nature and necessity of the case, to act jointly in all matters of joint interest; and this for the reasons above stated. But the methods that were frequently adopted for such joint action were defective and inefficient. Representatives of railroads would hold conferences and discuss the subject matters that required joint and uniform action on the part of many roads. They could hardly ever be all got together, and if they came together they could hardly ever agree; but if they did agree, the agreements were hardly ever carried out, at least not for any length of time. There was no authority to see that the agreements were enforced. Considering the complicated transactions covered by the agreements, it was impossible that these agreements could carry themselves out, without supervision or control. Yet, strange to say, that was expected. The history of railroad management in the past records the complete failure of these efforts; and nothing else should have been expected.

In 1874 the first effort at some sort of organized co-operation was made by the roads, which are now represented on the joint executive committee. I refer to the agreement known as "The Saratoga compact." Some seven commissioners were appointed, whose duty it was to control the rates. The organization was imperfect, and it soon fell to pieces. But it taught its lesson.

SOUTHERN RAILWAY AND STEAMSHIP ASSOCIATION—METHOD OF OPERATIONS.

In 1875 the Southern Railway and Steamship Association was organized. (I have already referred to it.) It provides for a complete government of the subject matter with which the association has to deal. The representatives of the roads come together and form a legislative

department. There is an executive officer who carries out the resolutions of the legislative department. If the representatives of the roads do not agree there is a judicial department that decides the question at issue between the contending parties. Majority does not rule. All questions of difference are to be settled judicially. They are to be submitted to arbitration. The interests of each individual road can thus be protected, which would be impossible under a majority rule. This is the principle upon which the Southern Railway and Steamship Association was established, and the joint executive and other associations have adopted the same principles. The only defect in these organizations is that there is no authority to legally enforce agreements. The voluntary consent of all parties is necessary, and it may be considered surprising that under these conditions the government of the railroads by these associations has been as successful as it has proved to be; although it is still very imperfect, it is a great improvement upon former methods.

The difficulty is not so much in arranging the joint tariffs, because there are certain principles that guide this work. The tariffs are generally determined for the railroads by other conditions and competition such as the water routes. These latter are really the tariff makers for the whole country.

Q. Are they included at all in this association, or in any association?—

A. Some of these connecting steamship lines are included in the Southern Association, but none are included in this association—no water lines.

Q. This association, however, owns some water-lines themselves?—

A. Some of the roads in the association own water-lines, but those lines are operated distinctly and on their own merits.

Q. But they have no connection whatever with the easterly end of the Erie Canal?—A. No; they carry freight to the canal as well as to the railroads. They are operated entirely as independent organizations.

THE ERIE CANAL—ITS TARIFFS, BOATS, AND NUMBER OF BOAT OWNERS.

Q. How are the tariffs on the Erie Canal fixed?—A. That is simply a matter between the boatmen. The supply and demand fixes that from time to time.

Q. The canal boats are owned largely by individuals, are they?—A. Altogether, I believe.

Q. And how large ownerships in number of boats are in a single man?—A. I could not tell you, but my information is that they are mostly men that own one boat.

Q. And they are mostly in competition with each other?—A. Yes.

Q. There is no combination that you are aware of between the boatmen or owners of canal boats?—A. No; none that I am aware of; they make their rates according to supply and demand.

Q. Have you any approximate information or impression as to the number of boats?—A. My recollection is that there are about five thousand; but I could not be quite sure.

Q. The ownership is divided between two or three thousand men, I suppose?—A. Perhaps so. I have no exact information, but my impression is that they are generally owned by men who own only one or two boats.

Q. Do you know whether, as a matter of fact, there is a sharp competition among them for freight?—A. I do not know how they manage

among themselves, but in Buffalo they operate through brokers, who make the rates for them generally, and that depends upon the amount of business that is there. There are, of course, certain limits below which they cannot go.

Q. Do railroads come into business connection with these brokers?—

A. No; they are canal brokers. They deal with the shippers mostly.

Q. Not with the railroads?—A. No; not with the railroadss, but with the shipper of grain that comes into Buffalo by lake.

Q. Have any of the railroads capital invested in the grain trade as shippers?—A. Not that I know of—not as railroad companies. Private managers may, but I do not know any that have. Railroad companies are never interested in the grain business.

Q. You do not understand that any prominent or heavy railroad managers are also interested as shippers?—A. Oh, yes. There is David Dows, one of our heaviest shippers in New York, who was President of the Rock Island Railroad for many years, although he is not now.

Q. But is it in such way that there could be combination between the railroad managers and the shipping interest?—A. Oh, no; I never heard of any. They are put on the same footing as others, and there are none that I know of interested in the trunk lines.

FURTHER REASONS FOR ASSOCIATION OF RAILROADS.

I was going to proceed in response to the main question, however. I think I have explained why it is necessary that there should be an agreement between railroad companies as regards the establishment and maintenance of tariffs. Of course, I could say a great deal more to show the reason for that.

The CHAIRMAN. It is well to say all that occurs to you, because this is a vital part of the subject.

The WITNESS. The business of the country could not be carried on without these agreements between the railroad companies. For example, at present the railroad companies agree together to make a rate to Chicago. There are, perhaps, three or four roads that constitute one through line to Chicago. They have to arrange among themselves for the through rate; how it shall be divided among the roads, and how the cars shall be distributed, and how many cars shall be furnished by the different roads; and there are a great many different things entering into the question that it is not necessary to state. I wish to show here the necessity for the railroads co-operating, or as is generally called (to make it odious), "combining," in order to furnish these facilities to the public. There was a time when they did not do this, and if a man wanted to make a shipment to Chicago, he had to ship first to Buffalo to a commission merchant there, who took charge of the goods there, and then transferred them to some other road, until, the goods finally reached their destination. Now, in order to get over all these difficulties, the railroad companies "combine," and assume to give a through bill of lading to Chicago, and they guarantee a through rate. Under the old system you could never be able to know what you had to pay for your freight. One charge was made from here to Buffalo; another from Buffalo to Erie; another from Erie to Cleveland, and so on until you reached Chicago. You can understand at once what a tedious and unsatisfactory way of doing business that must have been. In order to facilitate the business of the country and accommodate the public, the railroads "combined" to make these through arrangements. The initial road—that on which the freight originated—gives a through bill of

lading and receipt, guaranteeing to deliver that freight in Chicago, and it assumes all the responsibilities of a forwarder beyond the line of its own road.

Q. You are speaking now of freights going west?—A. Yes, or freights coming east; not only to and from Chicago, but to and from all the little villages and hamlets of the country, even where there is no railroad communication.

ADVANTAGE OF THROUGH BILLS OF LADING.

The railroads are now in the habit of issuing through bills of lading, guaranteeing the delivery of goods at destination, collecting the charges from each other, so that the shipper has nothing to do but to ship his goods to the consignee at the point of destination who, upon receiving the freight, pays the full charge. This saves a great deal of labor to the shipper.

That system is now in full operation throughout the country. Perhaps in no country in the world is it so perfect as here. You can get a rate to any point in the country and get a through bill of lading.

Now, in order to give a rate to a shipper to any point in the country, it is necessary that the railroads should come together and establish the rate, and that it shall be understood and made known to the public. It is one of the objects of this association to do that. In other words, instead of a shipper having to deal with forty or one hundred railroads, these roads are practically operated as if they were a single road, so far as the accommodation of the public requires. Taking the several roads from here to Chicago constituting one route, not only is it necessary that they should agree among themselves, but there are about fifty different routes or combinations of routes, by which goods can be shipped from here to Chicago, and in order to give people one uniform rate from here to Chicago all the roads constituting these routes have to come together and agree upon uniform rates. The question is what shall that uniform rate be.

FACTORS IN FIXING RATES.

The idea generally entertained is that railroad companies can ask anything they want. But, there is the competition with water routes, the competition in the markets for the articles to be transported, and other conditions influencing rates. The point is for the managers of these roads to come together and study the conditions under which they have to do business, and to adapt their rates to these conditions so that they may induce shippers to ship by the railroads. That is the problem. What the rate shall be is a matter of judgment and experience. If you make a rate that does not bring you any business, it is very soon found out.

Q. Is the result of that, practically, that all have to ship at that rate at which the route having the greatest advantages can do it?—A. All roads have to conform to the rate that is charged by the road that can or wants to make the lowest rate.

Q. But still the road that can carry at the lowest rate wants to get all it can?—A. Of course it does, and so do all the others, but the rates are limited by competition and condition of trade.

Q. And is there not, on the other hand, a tendency among the other roads to hold the charges as high as possible, and is it not to the interest of that road having the greatest facilities to conform to that higher

rate, and make all the more profits?—A. It is to the interest of all to get as much freight as possible; it is for their interest to make such a rate as will induce freight to move. If you charge too high rates you get very little business, and it is better to encourage business and get more at reasonable rates. Of course there are certain limits to which only you can go, below which the business becomes unprofitable.

Q. Here are four routes, one of them a weak route, but having, by far, the greatest natural advantages, and able to carry really cheaper than any other; and the other a very strong route, but likely to be injured in its business if the cheaper and weaker route is used as the carrier. How would the rates be fixed in that case?

THE CHEAPEST ROUTE FIXES THE RATE FOR COMPETING ROUTES.

A. In that case, as a rule, the cheaper and weaker route would not care about the others. If they could make a rate so low that they could make a profit on it, and the other road would lose money, they would make the low rate.

Q. It is a matter of calculation of interest, of course, but I would like to know what the fact is in the operation of this calculation. Do these weaker roads, with greater facilities, practically fix the rates at such a figure as they can carry and do the business, or do the stronger roads who would be injured by low rates succeed in fixing the rates? Take the New York Central, for example, and suppose (without discussing whether that be the fact or not) that it is a very much stronger road than the Baltimore and Ohio, but that it cannot do such business as would naturally come to the Baltimore and Ohio route at the same rate at which that business can be done by the Baltimore and Ohio road—then would not the stronger route fix the higher rate, and would not the weaker route, carrying out the higher rate, be able to make more money than if it had a larger proportion of the business and carried that at as low a rate as possible; and to avoid that might not the New York Central say, "We will fix it at this rate?"—A. I do not think the New York Central would have any influence, in such a case upon the Baltimore and Ohio. The principle upon which they all act is that each road wants to make the most money that it possibly and legitimately can make. The question is, what rate will do that? If the rate is too high, they won't get the business, and if too low, they won't make much money. It takes a good deal of experience in order to fix the rates properly.

Q. Is it or not a matter of fact, in the operation of this pool or association, that the road able to carry at the lowest rate fixes the rate?—

A. Yes, it is. It fixes the rate for all the others. That is the rule and the fact, and the rule is established simply because the other roads which want to charge higher rates cannot help themselves. Whenever a road wants to make a low rate nobody can keep it from doing so.

Q. If that is so, why is there an advantage in the combination?—A. The advantage of the association is, that all competitors know what that rate is and can conform to it.

Q. Simply for publicity as to what the charge is?—A. Yes; but, of course, the roads consult together. Each one has studied the existing conditions; each has agents all over the country, who know what rates are necessary in order to move the business; there are hundreds of agents all over the country that get information from shippers and merchants as to what is necessary in order to move the freights, and they report

this information to their chiefs, and these come together, compare notes, and determine what the proper rates should be.

THE ASSOCIATION A CLEARING-HOUSE FOR RAILROADS.

Q. Is it true, then, that in its primary capacity your office is a great "intelligence office" for the railroads?—A. It is, as I said before, a clearing-house, in which the railroads come together and compare notes and adopt the necessary measures to meet the ever-changing conditions.

Q. These rates are published, I suppose?—A. All the rates agreed upon in my office are published.

The CHAIRMAN. I do not know but that I broke in upon the current of your explanation, and you may proceed with that.

The WITNESS. I had answered, I think, the first part of your inquiry, the reasons for the existence of this office, and the methods employed in it.

ITS COMPARISON TO THE FEDERAL SYSTEM FOR STATES.

I might explain further, that the relation of this office to the various railroads having established it is pretty much like the relations of the Federal Government to the several States. It attends to the general business in which all the roads are interested, the same as the Federal Government transacts the business in which all the States have a common interest. If, for example, each State were allowed to make its own tariffs, and levy tolls and duties on commerce, without any restraint or agreement between all the States, it would lead to a terrible condition of affairs; and so, likewise, it would if all the railroad companies should do the same thing each for itself. To compare the railroads under the organizations which I have explained with the States under the Federal Government, each road would represent a State. If each road, acting for itself, would make its own tariff, levying its own duties, you can see that it would lead to a great deal of confusion, just as it would if the separate States of the Union were to establish tariffs and collect duties separately, each for itself. The railroads have established a general government; all roads come together and legislate as to the uniform tariffs and freights that should be charged, and appoint an executive officer to see that these tariffs are complied with. The fact that in all countries where there are railroads there are these institutions in a more or less organized form, indicated the necessity for them.

"RAILROAD UNIONS" IN GERMANY.

In Germany they have what they call the "Railroad Unions," dealing with the same questions that we deal with here in my office.

Q. Something like a trades union?—A. The trades unions are of the same character.

Q. It is a trades union among the railroads?—A. A trades union, whether among railroads or among the merchants, such as the chamber of commerce or produce exchange, or a union among the merchants or laborers. All have the same object, to improve the condition of the members composing the union.

Q. You can hardly attack the principle upon which one is founded without assailing the principle of the other?—A. I am in favor of all unions for the purpose of effecting good for the people, no matter what they are called. The same principle underlies them all. Sometimes, of course, the execution is different from what the theory is.

Q. Abuses might arise out of a good system?—A. Yes. But the principle is right.

RAILROAD CLEARING-HOUSE IN ENGLAND.

In England the railroads have what is called a "clearing-house," which is an incorporated association formed by all the railroads, or nearly all the railroads of England. In that clearing-house they deal with the same questions that we do under different rules and organizations. The English clearing-house makes the money settlements between the different roads, instead of each link in the chain of routes settling with the other; they settle through the clearing-house. The clearing-house is incorporated by the Government and it has worked for the last twenty or thirty years very satisfactorily.

Q. Do I understand you that its functions and action are very much the same as those of your association?—A. Yes; its practical working is the same, except that it takes into account the settlement of money matters, which is not yet done here. And here I may say that it is very unfortunate that these railroad associations here, in this country, have been called "pools." This a very misleading term. What might more properly be called a "pool" is an entirely different thing, and I will explain this further on. You might just as well call the association of merchants, known as "chamber of commerce," or "produce exchange," or the "Government of the United States" a "pool."

Q. This association is a purely voluntary association, while that in England is an incorporated one?—A. Yes. They have the right to collect debts and enforce rules among themselves, which we have not here.

Q. That is, they may do so through the courts of law?—A. Yes. It is a very excellent institution.

Q. This is a voluntary association here?—A. Yes, altogether.

Q. Yet is it so far a matter of contract that the agreements might be made subject-matters of litigation in case of breach?—A. This question has never been tested. I think myself that it ought to be made so. And, I also think, an institution like ours ought to be incorporated in order to make it so. We find a great deal of difficulty in carrying out our arrangements, because any man can withdraw from it who sees fit, or violate the established rules without being punished.

Q. It is simply now an arbitration which cannot be enforced by law?—A. I suppose it might be enforced by law even now, although it has never been tested. I suppose any legitimate agreement between parties might be enforced.

RAILROAD PROGRESS LIES IN CONSOLIDATED MANAGEMENT.

I have shown the necessity, and the benefits to be derived from the railroad companies working together in this way. In fact, it ought not to require much argument to show the necessity of it. I think the general drift of public opinion has long been that the railroads should all be under one government—and under the National Government—and that arises from the fact of difficulties coming up in the management of so many different railroads which makes it almost impossible to carry on the transportation business in a proper way. The same difficulties were experienced in all countries. In Prussia all the railroads are operated now under state control. Prussia has purchased all the railroads of the state. The reason for that is precisely the same as the reason for our associating together, and trying to work the different railroads

as one railroad. The experience of the whole world is in the direction of uniform and consolidated management—at least of the commercial part of railroads.

Q. The “commercial part”—what other part is there?—A. There is the technical management of railroads. That, of course, might be left to each separate corporation as they would most intelligently and readily attend to it, although co-operation in that is desirable.

Q. That is, the care of their road bed and rolling stock and their corporate existence, etc.?—A. Yes; and also the management of their local affairs. This association only takes cognizance of competitive business, when more than one road are interested in the business. The local business can be best done under the management of the local authorities. They can understand it better, and it would be a very bad plan to have the management of all the railroads of the country centralized in one office. It ought only to be centralized to the extent necessary to conduct the general business of the country, in which all or many roads are interested, so as to prevent confusion and war, and all the consequences that would follow war. The local development and management ought to be left to the local interests, as the management of purely State affairs is left to the separate States; the General Government of the country attends only to affairs in which the States have a joint interest. So with the railroads. Let each road manage its local affairs according to the circumstances of the case, and only co-operate in the general government in establishing tariffs that affect business beyond their line of road and which affect other roads than their own.

The CHAIRMAN. Were you going on to other matters?

REASONS WHY RAILROADS CANNOT FIX RATES ARBITRARILY.

The WITNESS. Having shown the necessity for this association, I want now to remove the impression that exists—although I think I have already partially done so—that these combinations could control rates in such a way as to exact more than a fair compensation for the services performed. This is also a very broad question, and if you should think I go too far into detail I wish you would stop me.

The CHAIRMAN. We would like to go as far into detail as you have the slightest inclination to do. The more explanation of these matters we get the better we can understand them.

The WITNESS. The rates of transportation are not in the power of the railroad companies to fix, arbitrarily. They are regulated by so many conditions and influences that there is no danger that the railroads can exact unreasonable compensation. The danger, I think, is rather the other way. The question is whether the railroad companies can carry on business at such low rates as are forced upon them. Not only the water-way, as I have explained, control the rates almost completely—limiting them, at any rate, within very narrow limits—but the competition of the markets for the products that are to be carried is another great factor in fixing railroad transportation rates. The price of grain, for example, is not fixed by railroad companies; but is fixed in the markets of the world. That price is generally regulated now by the Liverpool market, and if railroads want to carry any grain they have to carry it at a price that will enable the producers to compete in the Liverpool market with the markets of the world. The East India wheat, and Black Sea wheat, have even become factors in making railroad rates from Chicago to New York. There is therefore no danger

whatsoever of any excessive charge being made. The object of this association, as I have said before, is to fix upon a uniform rate. The limit of the rate generally is very closely fixed. This is the case with every commodity. Take, for example, sugar. That article is now being carried for 25 cents per 100 pounds, from New York to Chicago. That is a quarter of a cent a pound, which is a very small charge upon that article for its transportation over such a distance, nearly 1,000 miles. The reason for this low rate is that sugar is carried to the West by the Mississippi River. New Orleans is a great sugar market, and if the railroads of the East want to compete with this market the rates must be fixed so low as to meet that competition. There are other articles that require very low rates in order to be transported at all. For example, coal and iron, and all like heavy and cheap articles. The tariff is fixed by the market price for the products in different places in the country. The railroad transportation charges can never be more than the difference between the market value of the articles in different markets—that determines for the railroad companies their charges in a great measure. And therefore this cry about the railroad companies, or a railroad combination exacting arbitrarily from the people unjust compensation for their services is all gotten up for other purposes than to tell the truth.

RELATIVE IMPORTANCE OF LOCAL AND THROUGH BUSINESS.

Q. I wish to ask you a question now, which, if it interferes with your continuous answer, you may let pass for the present and take it up later. I want to learn from you in which way the country pays most to the railroads—whether in the form of rates or charges such as are arranged through your association, or for local rates or charges? That is, which is the greater source of income to the roads of this country, as a whole, the through business or the local business?—A. That is very different on different roads.

Q. But, I say, take the country as a whole. Do people pay more as local charges, or as through charges?—A. You mean in the aggregate?

Q. The aggregate.—A. I could not tell you that without looking further into the matter.

Q. Could you tell what it probably is over the roads that are in your association—which is most important to them, in other words—the through business or the local business?—A. The local business is the most important. The through business is a mere incident of the business of a road.

Q. Is not the effect of all this to sacrifice the interests of people who live along the line—paying these local charges—to the interests of those who make long shipments between these competitive points?—A. I think the effect is quite the reverse; the through business is more often the protection of the local business.

Q. Including passengers and all?—A. Yes.

Q. In that connection I would like a full explanation of this apparent conflict between the through and the local charges.

LOCAL CHARGES AFFECTED BY THROUGH CHARGES.

A. The local charges are, in a great measure, affected or regulated by the through. In the case of a railroad war, where the roads lose money on the through business, they would of course try to make it up on the local business; and the local charges would in comparison

with through charges be much higher and unjustly discriminating. Hence, the operation of the association is to maintain a paying through rate, as high as it can be got (which is never very high), and in that way they can rather lower the local rates and properly adjust them to the through rates. The principle that is adopted by most railroads is, that when a proper, a reasonable, and profitable through rate is established, they graduate their local rates by it.

Q. What is the relation between them?—A. For example, the Pennsylvania Railroad would not charge more to a place 50 or 100 miles this side of Chicago than to Chicago, and they might charge less—not, perhaps, in full proportion to the mileage, but to some extent so. They would graduate the rates this side of Chicago on the Chicago rate. But, when there is a war of rates—when they charge only 10 cents to Chicago, they cannot reduce their local rate in proportion; then rates to the local points are comparatively higher. That constitutes one of the greatest objections that people have to railroad tariffs when rates are comparatively so much lower to competitive points than to local points. This can all be done away with. When the through rates are maintained reasonably high, then they can adjust their local rates accordingly, and keep the local tariffs in line with the through tariffs so that there will be no unjust discrimination—so that a man 20 miles this side of Chicago will not have to pay more than a man at Chicago, which he would have to do in case of a railroad war. In a properly regulated tariff that does not occur. That is the reason why through rates should be maintained. It protects the local shipper. It does not make so much difference to shippers what the absolute rates are, the comparative rates are of more importance.

GRANGER LAWS.

The low rates at competitive points, compared with high rates at local points gave rise, I think, some years ago to the Granger legislation in portions of the West. In the State of Illinois, for example, the roads were crossing each other at every 10 or 12 miles, and wherever two roads crossed they went into a fight with each other, and put the rates down to almost nothing, while on each side of the competing stations they kept them up; and that led to a great dissatisfaction among the people, and justly so. The railroad managers have learned something by that experience, and are trying to keep up the through rates and adjust local rates in proportion. This unjust discrimination formerly practiced, has now, in a great measure, been done away with. That is one of the advantages of these associations, regulating the competitive tariffs. Whenever a tariff is fixed from one point—for example, from Chicago—those to other points are adjusted accordingly and kept in harmony with each other; this prevents unjust discrimination.

RELATION OF RATES ON LONG AND SHORT HAULS.

Q. Are there instances where more is charged for the shorter haul than for the longer one? For instance, more charged for drawing freight from Philadelphia to some point between Philadelphia and Chicago than from Philadelphia to Chicago?—A. No; they are not when through tariffs are maintained. But there are instances where a rate to an intermediate point may be higher than a rate for a longer distance. For instance, from here to New Orleans the rate may be 40 or 50 cents per hundred pounds, and to Atlanta perhaps a dollar; but this is not unjust discrimination, and does not operate against Atlanta. Points that

are not on water-courses have to pay more than points that are; that is in the nature of things, and railroads, of course, have to conform to the settled state of affairs. Railroads do sometimes engage in carrying business from here to New Orleans for 50 cents, in order to compete with the steamship lines, while they charge a dollar or more to Atlanta, an intermediate point.

Q. What is your view of it? Ought not these railroads to leave the business to the water-routes?—A. They will not do that, and it is better for the public that they should not. They keep the steamship lines in order. This sort of competition is constantly going on.

KEENNESS OF LAND AND WATER COMPETITION.

We had an example the other day of a case where a line running from here to Savannah went into the Louisville and Cincinnati business. In order to secure business from here to Cincinnati, they took it to Savannah first; the goods are then about as far from Cincinnati as when they started from New York. That is the kind of competition that is constantly going on. If roads cannot do the business for one price, they will do it for another as long as they can do the business without actual loss of money.

Q. I suppose that as the interior is absolutely dependent upon railroad communication for its shipments (before those shipments can reach any sort of water communication), the railroads must be able to make such charges as will enable them to exist; otherwise, they could not do the business at all?—A. Yes; of course, they must make higher charges; but they are even limited by the water competition. Atlanta is an interior point, and the rates are higher to that place, perhaps, than to other places. Yet, there is water communication from here to Savannah and from here to Charleston, and a very short rail line from there to Atlanta, so that the water routes again control the direct railroad lines. The road running from here direct to Atlanta cannot charge more than is charged by the steamship company running to Savannah or Charleston; and so that fixes the rate again. So, you see, that at every point you can mention there is some restraining influence.

Q. Do you believe that rates are cheaper between New York and New Orleans by water than if there were no railroad communication between New York and New Orleans?—A. I know that there was a war between railroads and steamship companies for months and months, and they were cutting freights down almost to nothing—25 cents a hundred to New Orleans.

Q. Do you think those wars have increased the cost of railroad transportation to the interior?—A. Oh, no. Those wars are only carried on temporarily. When the war is over they come back to paying rates. Still, the steamships and railroads keep each other in check. If the steamship company can make a low rate, and they always can make much lower rates than railroads, they won't make it profitable to a railroad company to come in and take away business. Their object is to keep the rate so low that the railroad company cannot do business, or at least make it unprofitable for them. That is an influence that operates constantly in fixing the rates.

TENDENCY OF RAILROAD CHARGES TO A REDUCTION.

Q. What has been the effect on the course of transportation charges since the organization of this association of yours?—A. As I said before, all these railroad charges are entirely independent of these asso-

ciations. It can be shown from the experience of these associations that the tendency of rates is to go down constantly if not arrested by them. When the Southern Railway Association was first formed the rate from New York to Atlanta was \$1.60 on first-class goods. Now it is \$1.25; and I think that in a very short time it will be \$1. These rates are always regulated by other factors than by the association. The association simply conforms to the conditions under which the rates must be made; but if you would go through these statistics you would find that the tendency of rates is constantly to be lowered. The rates, for example, to-day, on grain are much less than they were three or four years ago, but can never be as high again.

SUFFICIENCY OF TRANSPORTATION MEDIA.

Mr. PUGH. Are the railways and water-ways combined able to furnish transportation sufficient for the surplus food crop that seeks market?

The WITNESS. At this present time?

Mr. PUGH. Yes.

The WITNESS. Oh yes, sir; more than sufficient. I think we have some facilities to spare.

Q. You mean that the means of transportation are sufficient for the surplus food crop of the West?—A. Yes, sir. So far they have been. In fact, there are two new Eastern trunk roads built that carry that business now, in addition to the five that existed before, and they are not only sufficient to carry the amount of the crop that is raised both for the domestic consumption and for export, but they have not enough work to do.

PROPORTION OF FREIGHTS CARRIED BY RAILROADS AND WATERWAYS, RESPECTIVELY.

Q. You say that about 60 per cent. of this freight is carried by the water-ways?—A. I said that of the grain coming, during the summer months, to New York; about from 40 to 60 per cent. of it comes by canal.

Q. When the canal is open, it carries about 60 per cent.?—A. Yes, of the grain that comes here to New York.

Q. The bulk of that crop comes over the railroads before the canal is closed up by the ice?—A. I suppose 20 per cent. of the total receipts of grain at the Atlantic seaboard would be carried during the year by the canal; but it differs in different years. Sometimes the canal carries less, and sometimes more, and from 40 to 60 per cent. of the grain received at New York would come here by the canal during the navigable season.

Q. From 40 to 60 per cent. is carried by the water-ways while in competition with the railways?—A. Yes, to New York; and only 20 per cent. of the total shipments to the Atlantic seaboard during the whole year.

Q. The balance of the crop, then, that is on hand for shipment, when the water-ways are closed up by the ice, is left to come by the railroads alone, and they have to furnish the means of its transportation?—A. Well, not alone. There is the Mississippi River, you know.

Q. But I mean for eastern ports and markets?—A. Yes.

Q. Now, are the freight rates the same in the summer months, when the roads are in competition with the water-ways, as they are when the ice closes up the water-ways and the railroads enjoy a monopoly of the

freight—do the tariff rates continue the same?—A. Rates are generally, if not always, lower in summer than in winter.

Q. Then, in the absence of the competing power of water-ways the freights are raised by the railroads?

SUMMER AND WINTER RATES—REASONS FOR THEIR DIFFERENCE.

A. The freights are raised by the railroads, yes—if they can—if the market is so that they can raise them.

Mr. PUGH. We understand the reason. It is the absence of competition.

The WITNESS. May I suggest another reason?

Mr. PUGH. Certainly.

The WITNESS. During the summer time the railroads carry the grain to the East for less than it costs them to do the work, if interest on capital is included in cost. In the winter time they try to charge a little more.

Q. To make up?—A. No; to charge more nearly what it costs them to do the work. Even in the winter time they do not charge more than it costs. I think they generally charge less. Grain transported to the East at a 25-cent rate, for example, at present does not pay the railroad companies enough to pay the interest on their investment, or a proper proportion of it; and, therefore, whenever the competition allows, they put in rates that will pay them something. That is the reason they raise the rates in the winter time. There is another reason that could be given, namely, the increased cost of operating roads in winter—though this is not the real reason—the real reason is that they can get pay for their work in winter time; in summer time they have to do work almost without profit. If you take the difference in cost of transportation for grain, I mean of doing the work in the winter time as compared with summer, I think it would alone justify the increase made in the charges. In winter time, when the snow is on the roads, perhaps five locomotives may be required to haul a train, while in the summer time it can be hauled with one; and the extra cost on account of delays and stoppages and interferences by snow, etc., would justify an increase in the charge for transportation. If the charge in the summer time was a proper one, it might, in the winter time, be higher, and still be a proper one; or if the charge in summer time was too low, an increase in winter time would still more be justified. But this, I say, is not the reason for making the advance. The reason is that the roads can get more for the service, and they are entitled to more as long as the rates charged are perfectly reasonable.

Q. I understand you to say that the water-ways are the real regulators of the tariff rates on your railroads?—A. Yes.

Q. And that, notwithstanding this combination of the trunk-lines and their connections, the rate of freight is regulated by the water-ways?—A. Regulated, yes.

RATES FIXED WITH A VIEW TO MOVING THE CROPS.

Q. Now, when the water-ways are not in existence, of course that cannot be the fact?—A. Oh, yes; they have an indirect influence in regulating the rates. I thought I had explained that.

Q. Yes; that the crop lies over and waits?—A. Yes.

Q. Well, would not the crop suffer if it were kept on hand; would not grain and meat suffer?—A. And so would the railroads suffer if they had nothing to carry. This is the reason why the railroads furnish

facilities and make rates under which the people can market their goods. The railroads never charge so much as to prevent the movement of the crops. The companies are interested in moving the crops, and must conform their rates to the market value of the articles they carry. If they would make a rate that would shut out the farmer from the market in the winter time, or would ruin his business, they would also ruin the railroads.

Q. Well, when the ice closes the water-ways there is a large portion of the crop to ship, and that is entirely dependent on the railroads for transportation?—A. Immediate transportation, yes.

Q. And when that condition of things exists as to that portion of the food-crop unshipped, the railroads are masters as to the freight rates?—A. I beg your pardon, they are not masters. As I have explained, if the prices of these articles are low in the market that obliges the railroads to give such a rate as will move the crop. That is a consideration that enters into the making of rates. The roads cannot charge what they please.

Q. They are restrained?—A. Yes; by the market value of the articles seeking transportation; that is, by the competition of the grain in the markets, and that influence exists during the whole year, in winter or summer. This is the limiting condition in making transportation rates. The competition in the markets regulates the rates, and that competition cannot be shut out by any combination of railroads whatever.

Q. You leave, then, a margin of profit, in order to induce shipment?—A. Of course.

Q. If the producers and merchants could not make anything by shipping it to market, of course there would be no shipment?—A. No.

Q. Then you look to the profit in the market to determine the amount of your freight rates?—A. Not so much to the profit as to the values of the article in different markets.

Q. Of course; but the market price decides the amount of profit to the producer?—A. Yes.

Q. And the producer has to take out the freight rates, of course, and then what is left him in the market is the inducement which he has for shipping?—A. Yes. The producer and the railroads have to work together. The producer or merchant confers with the railroads and states what is needed to carry on his business; and it is a matter of barter between the shipper and the railroad company what rates shall be charged. Both are anxious to move the crops, and both are dependent on each other to move them. The railroad man and the shipper, it must be supposed, are both intelligent men, and they will make an agreement that will be to their mutual advantage. That is the way all commercial transactions are conducted.

Q. What is the present rate on a bushel of wheat from Chicago to New York by railroad?—A. Fifteen cents a bushel—25 cents per 100 pounds. It is nearly 1,000 miles of transportation, and, as I said before, it does not pay the cost of moving the grain, if a proper compensation for the investment in the roads is considered.

Q. In the winter time what would it be—when the canals are closed?—A. Last year the highest rate was 30 cents, and the year before it was 35 cents. During the whole winter, when there was ice on the canals and on the lakes, the railroads charged last year 30 cents, which was not more than they charged in the summer of 1882. The grain was not moving very freely, and hence the very low winter rate. The rate was 35 cents in the winter before, and it is not five years ago since it was 45 cents in the winter and 35 cents in the summer. Everything is going

down. The rate this last winter was 30 cents, only 5 cents per 100 pounds higher than the summer rate.

Q. From your general information, how much profit would that 5 cents per 100 pounds make in the aggregate business of the railroads?—A. That 5 cents is only upon grain. Unfortunately, I have not the figures with me, but I would like to give you that information.

MISCONCEPTION AS TO RAILROAD PROFITS.

A gentleman, who is now no longer living, estimated a short time ago that the exactions of the railroad companies by increasing the railroad rates 5 cents per 100 pounds would amount to \$900,000,000 a year, while at that time the truth was that the total earnings of all the railroads of the country for all the freight and passengers transported over them were only about \$500,000,000. I would like very much to give you that information, as I made the calculation at the time to show that the estimate was slightly overdrawn, as it is hardly possible that you can make an overcharge of \$900,000,000 out of total earnings of \$500,000,000.

By Mr. CALL:

Q. You said that \$900,000,000 were realized by imposing an additional charge of 5 cents?—A. That was the estimate presented to the Anti-Monopoly League when that League was first organized, two years ago.

TOTAL ANNUAL RECEIPTS AND EXPENDITURES OF AMERICAN RAILROADS.

Q. And your calculation showed that the gross receipts were only \$500,000,000?—A. Yes; the gross receipts of all the railroads in the country were then only \$500,000,000. Of course, out of that about three or four hundred millions were paid out for working expenses.

Q. Have you in your mind at present what the gross receipts are now?—A. Yes; last year the gross receipts were about, in round figures, \$700,000,000 for both passenger and freight business. The freight receipts were about \$500,000,000 last year; that is on 112,000 miles of railroads which reported their earnings.

Q. What are the net receipts; have you any idea?—A. The net receipts were about \$300,000,000, the gross receipts being about \$700,000,000. The dividends and the interest on the bonds had to be paid out of about \$300,000,000. I think the stockholders got about \$100,000,000 of that. It is about 3 per cent on the stock.

Q. On the capitalization?—A. No; on the stock. And the bondholders get about 5 per cent. The whole railroad capitalization is \$7,000,000,000, and about half of that is stock and half bonds.

Q. You mean that there are \$7,000,000,000 invested in railroads?—A. Yes. Of which about half is represented by bonds and the other half is represented by stock.

Q. And the whole amount of dividend on the bonds is 5 per cent.?—A. Yes; and on the stock 3 per cent.

INDEBTEDNESS OF RAILROADS, STOCK AND BONDS.

By the CHAIRMAN:

Q. Are the railroads of the country bonded to as large a sum as their capital stock?—A. The total indebtedness of the railroads is represented one-half by bonds and one-half by stock, in round numbers. Out of

the \$7,000,000,000 there is about \$3,500,000,000 in bonds and about an equal amount in stock.

Q. Then the bonded indebtedness of the railroads is the same, or substantially the same, in amount as their stock capitalization?—A. About the same; I only give the round figures.

Q. Do you call that indebtedness?—A. Yes.

Q. It is an investment on which they are entitled to dividends, perhaps, after the interest is paid upon the bonds; but do you mean that the stock is a debt except in the sense that it is entitled to a dividend?—A. Well, it is a liability of the company to the individual stockholders. I do not know that it makes any difference what you call it. There is about one-half bonds and one-half stock that makes up the whole capitalization of the railroads; very nearly so.

Q. First, the bond is the prior claim, and that is entitled to its interest, and if there is anything remaining of the net profits it is distributed in the form of a dividend to the stockholders?—A. Yes, and that dividend is 3 per cent. A great many roads do not pay any dividend, but the average dividend paid is about 3 per cent. on all the roads. I think if any proof is wanted to show that the stockholders do not get excessive profits, that would be enough to establish that fact.

By Mr. PUGH:

Q. Before going back to the subject about which we were inquiring, I will ask you in connection with this point this question: You say that the capitalization of the road is divided into stock and bonds?—A. The capital invested in the railroads of the United States is represented partly by stock and partly by bonds.

Q. Now, in making up the amount invested, how do you get at it; do you add the stock and the bonds together?—A. Each railroad company's indebtedness is shown by its reports.

RATIO OF STOCK AND BONDS TO ACTUAL COST OF RAILROADS.

Q. In ascertaining the cost of a road, you combine the stock and the bonds?—A. You can hardly call it the cost of the road.

Q. That is what I want to inquire into, and how this combination of stock and bonds compares in the aggregate with the actual cost of the road?—A. That I do not know. I could not tell.

Q. Have you no judgment on that? Have you never thought of that enough to give us an estimate?—A. I have thought of it a good deal.

Q. What is the difference between the actual money cost of the roads to the present holders and the amount of the stock and bonds that you mention?—A. I think that you could not replace the railroads for the present capitalization—for the amount that is now charged against them in stock and bonds.

Q. You think that the railroads could not be built to-day for what is summed up in stock and bonds?—A. I think they could not.

By the CHAIRMAN:

Q. That is they could not be built for \$7,000,000,000?—A. They could not be built for \$7,000,000,000 as they are, with all the improvements and the rolling stock, etc. My reason for saying so is that when you examine in detail the cost of the roads you find that the capitalization is about \$60,000 per mile. The question is, could you now duplicate or replace the railroad system for \$60,000 per mile.

AMERICAN RAILROADS CANNOT BE DUPLICATED FOR \$60,000 PER MILE.

Q. Including the rolling stock and all?—A. Including rolling stock and all; and in my estimation (and I think I know something of the cost of railroads, for I have built a great many) you could not replace them for \$60,000 per mile to-day. While there is no doubt a great deal of watered stock, yet, on the other side, there are a great many railroads that have gone through bankruptcy, and their stock has been wiped out, and if you put one against the other you will find that \$60,000 per mile is not enough to build the present railroad system of the country.

Q. How many miles of railroad are there in the country?—A. One hundred and twelve thousand miles. Some of those miles cost two or three millions of dollars per mile; others only \$20,000 a mile, which is perhaps the least that you could build a railroad for. The rolling stock alone of these roads is worth perhaps six or seven thousand dollars per mile. Then you have to take into consideration the interest that you have to pay on railroads while they are being built; that is a proper charge against the cost. Some railroads have been building ten years, and had to pay interest perhaps on half their cost during that time. I think a small computation of the interest on railroads while building is about four or five thousand dollars per mile. Then there is the discount when you have to sell bonds perhaps at 60. Some roads have been fortunate enough to sell at par while building, but very few. That item of discount may amount to from four to six thousand dollars per mile. Then the terminal facilities cost a great deal—the shops, depots, water-stations, and the ground for depots, shops, etc. When you count all that up, I am satisfied you could not to-day build the railroads of the country for less than \$60,000 per mile, and all this talk about stock-watering—while that is a very objectionable feature of our present railroad system, so far as it affects the cost of the roads—is greatly over-estimated. You always hear talk about stock-watering, but never about bankrupt railroads, whose stock has been altogether sunk. Some of the railroads have gone into bankruptcy two or three times, and some will go through it again no doubt.

By Mr. PUGH:

Q. Then you state it as a general fact that the stock and bonds in the aggregate fall short of the actual market value of the roads?—A. You have to make a difference between market value and cost.

Q. I mean what they are worth in the market now?—A. Some of our roads are worth nothing and the present capitalization may be all wrong, so far as their market value is concerned. These roads that pay no dividend have only a prospective value and are worth nothing to-day in the market.

Q. They are dead capital?—A. Dead capital. That is, to the stockholder—not to the bondholders, or to the people who use the roads and get the benefit of them.

Q. In your judgment what per cent. do the freight rates pay upon the capital—on the amount invested?

RAILROAD EXPENSES 60 PER CENT. OF RECEIPTS.

A. The operating expenses of the railroads are about 60 per cent. of the earnings. The railroad companies pay out in cash in operating the roads 60 per cent. of what they take in. That leaves 40 per cent. to pay

the interest on the bonds, and the dividends on the stock. This 40 per cent. amounts to $4\frac{1}{2}$ per cent. on the capital. That is, the railroad companies by their present charges make enough net money to pay $4\frac{1}{2}$ per cent. upon \$60,000 per mile of road, or 3 per cent. to the stockholders and about five per cent. to the bondholders. They pay more on the bonds; they have to pay first the interest on the bonds, and that leaves for the stockholders but 3 per cent. on their investment—on the stock as it is now reported. That is the result. On the \$700,000,000 that they take in for passengers and freight, 60 per cent., or about \$400,000,000, they pay out to their workmen and officers and employés and to the manufacturers who furnish the material and supplies, and to the manufacturers' workmen.

Q. What is the proportion of that 60 per cent. that is paid to the actual laborers in the service of the roads without regard to the officers—what percentage of that 60 per cent., I mean, goes to the employés?—A. I could not tell you that without referring to statistics and papers, but I can tell you nearly enough. Nearly all of it goes out to laborers; if not to the railroad companies' laborers, then to the laborers of the manufacturers that are engaged in furnishing supplies to the company. It is all labor really, except the profits to manufacturers. The amount paid to officers and clerks is but very small, perhaps about $1\frac{1}{2}$ per cent.

Q. I mean the railroad hands in the service of the company, those employed in running the road and keeping it in repair?—A. You mean the laborers on the track and the engineers, firemen, and conductors?

Mr. PUGH. Yes, and roadmasters, and so on?

The WITNESS. I will make a rough guess. Fifty per cent. at least goes to the immediate laborers; but I leave that answer subject to correction. Nearly the whole of it, however, really goes to labor of one kind or another.

Q. You say that the freight rates are regulated by business rules and considerations that govern all investments and industries?—A. Yes.

Q. You meet together and consider these rules in making a decision?—A. Yes.

Q. You think that they are reasonable, of course, for the service?—A. I think, from the facts I have stated, one would be justified in forming that opinion.

SHIPPERS NEVER SATISFIED WITH RAILROAD CHARGES.

Q. What does the shipper think of it?—A. The shipper is never satisfied as long as he has to pay anything. You will find this the case here and all over the world. The shipper's business is to get the rates down as low as possible, and to get as much service as possible for the least money. The middlemen, the merchants and shippers, stand between the railroads and consumers, and whatever deduction in charges the railroads make the middleman generally puts in his own pocket; hence they are always trying to get lower rates.

Q. He pockets it?—A. He pockets it, and that is the reason why he is so interested in getting the rates down. He generally represents himself, however, as doing it for the benefit of the people, when it is really for the benefit of himself. The people at large are generally satisfied with the transportation rates, and have reason to be so.

FREIGHT ON BARREL OF FLOUR, CHICAGO TO NEW YORK (1,000 MILES), 50 CENTS.

To illustrate: See what it costs a man to get a barrel of flour from Chicago to New York; the railroads charge now 50 cents for carrying

200 pounds of flour 1,000 miles. I do not know how much a man generally consumes, but suppose a man eats a pound of flour per day, and if he does, he pays in the year for the transportation of his 365 pounds of flour about 80 cents, 25 cents per 100 pounds. If he eats a pound of meat per day, the charge on that is 30 cents per 100 pounds.

By the CHAIRMAN:

Q. Have you not made a mistake in your calculation as to the flour; a man will eat a barrel and a half per year if he eats a pound a day?—

A. The cost of its transportation is a quarter of a cent a pound.

The CHAIRMAN. Ninety-one cents, I make it.

The WITNESS. Call it 91 cents.

The CHAIRMAN. That is saying nothing of the price of the flour itself.

The WITNESS. So that a man pays about \$1.90 for the transportation of all the meat and flour that he eats in a year. A laboring man earns that by a day's work. Now, I do not think that is an unreasonable charge when you come to consider that for one day's work a man can get the farms of Illinois brought right before his door.

PROFITS OF MIDDLEMEN.

But some of these middlemen go before the working people, especially when they want to establish an anti-monopoly league, and talk of the exactions of the railroads, and yet I have no doubt that the grocer makes a profit of a dollar when the railroads get only 50 cents for carrying a barrel of flour 1,000 miles. The middleman merely for buying and selling gets more than the railroad for transporting it that distance. Yet the middlemen that produce nothing are the men who arouse dissatisfaction among the workingmen by telling them that the railroad companies are their enemies, and are ruining them, and are taxing them to death, while the fact is that the railroads have been instrumental in supplying the laboring men with cheap food.

CHEAPNESS OF RAILROAD RATES.

If you go through the whole list of articles of consumption, you will find that the item of railroad transportation is very small compared with the cost of the articles. Take a suit of clothes, for example, shipped from New York to Chicago, weighing, say, 10 pounds. That is transported for $7\frac{1}{2}$ cents (75 cents per 100 pounds); the suit may cost anywhere from \$20 to \$50. I do not think there can be any complaint of such a charge as that on such an article for 1,000 miles of transportation. Then take a silk dress that weighs perhaps three pounds. The charge for that is $\frac{3}{4}$ of a cent per pound, making $2\frac{1}{4}$ cents for the transportation of a silk dress 1,000 miles; or take a pound of coffee—I do not know what a pound of coffee costs now, but we carry it to Chicago for $\frac{1}{3}$ of a cent. If coffee costs, as I am just informed, 11 cents per pound, the railroad company out of that 11 cents gets one-third of a cent. That is not a very extravagant charge, and I think nobody would object to paying that amount for the service rendered. Then take sugar. We carry sugar for a quarter of a cent from here to Chicago, and if the price of sugar is 14 cents per pound, I do not think the proportion which the railroad company gets for transportation is very large. The railroad charges really are a very slight proportion of the whole charge for these articles of consumption. If the railroads carried them

for nothing the price to the consumer would be very little affected thereby.

By Mr. PUGH:

Q. I understand you to say that the main object of this railroad co-operation, or the system adopted by the railroads, was to regulate freight rates—the tariff of freights?—A. To establish proper and uniform tariffs.

By Mr. CALL:

Q. On through lines?—A. Yes. Each road could establish its own tariff without an association, but these tariffs could not be made uniform and properly adjusted to each other without co-operation.

By the CHAIRMAN:

Q. You include passenger traffic as well as freight traffic?—A. Yes.

By Mr. PUGH:

Q. You arrange the tariff rates or fares for passengers and freights?—A. Both passengers and freights, yes.

RAILROAD "POOLING" SYSTEM: ITS RAISON D'ÊTRE.

Q. The amount of freight and the number of passengers that each road is to get is not a part of the object, or not a subject of regulation by the combination, as I understand?—A. That brings us to another branch of the question. I know the object of your inquiry. It is one of the objects of the railroads in coming together to establish rates; but another object which they have in view, and a much more difficult one to carry out, is to have all the railroads maintain the rate so established. The practice of railroad companies has been that after agreeing upon rates with other roads, one or more, or all of them, make lower rates secretly; and after a while it is found out that every road has its own rate and every shipper has his own rate; so that one shipper does not know what the other shipper is paying, and the agreed tariffs are not maintained. Now, for the purpose of maintaining rates, there are certain means adopted by railroads which are the only means that can be adopted at present, or until the Government gives some help in the matter—and that is what is called the system of pooling.

Mr. PUGH. That is what I want to get at.

The WITNESS. Yes, I understand. That system is adopted merely for the purpose of maintaining the established rates by withdrawing the motive of the different roads to cheat each other.

Q. Underbidding?—A. Yes; cheating, rather, I should call it.

Q. Violating their agreement?—A. Yes; but still I will call it cheating.

By the CHAIRMAN:

Q. They do that, then, do they?—A. Yes, unfortunately.

By Mr. PUGH:

Q. It is hard to restrain the competing power, is it?—A. Yes. The competing power is stronger than honesty. If they only did it openly, there would be no objection. It is the secrecy that is objectionable.

ITS PLAN OF OPERATION.

To explain what is meant by pooling: Take, for example, a number of roads, say four of the trunk lines here. They come together and say, "Let us restrict our business to a certain amount for each com-

pany—each only doing so much when there is not enough for all to do, and guaranteeing that much to each other, so that we may have no motive to cut rates.” And they compare notes, and see that for the last five or ten years each road has done relatively the same proportion of the total business. There must be a law—I do not myself know what it is—that regulates this railroad business, for each road receives each year, whether they fight or not, almost a certain proportion of the business. Now, they agree with each other instead of fighting for the freight and giving rise to all the difficulties that are consequent upon a war of rates that each road shall get, say one fourth, if there are four roads, and if that be the proportion in which they have heretofore carried the business. They simply say to each other, “Let us stop this underbidding, let us maintain the same rates for the same service, and get some compensation for our work instead of ruining each other.” If one road gets more than its proportion, it agrees to hand it over to the others; or it goes out of the market for a while until the others catch up. There are a number of methods by which they could bring about the agreed distribution of the traffic.

Q. That is all done to maintain the freight rates?—A. The rates that all have agreed to—after full consideration as to the proper rates to be charged. That is done to stop friction and cutting of rates and discrimination among shippers and open war between the roads; and it is done so that the railroad companies can get some money for the work they do.

Q. I have a memorandum here, noted down from the testimony you have been giving, that the combination has nothing to do with local rates, except where two or more roads compete for freight?—A. Yes. The organization takes no cognizance of local rates. It is only when a number of roads come in contact with each other that some uniform rate must be agreed upon. The question of rates from New York to local points does not come before the association.

Q. Where there is no competition, the road is left free to make its own charges?—A. Yes.

RAILROADS BUILT PRIMARILY FOR LOCAL TRAFFIC.

Q. Through business, you have said, is a mere incident of the road, and the local freight is the paying freight?—A. Yes. Perhaps I ought to qualify that expression—“incident.” On some roads it may be one-half, and on other roads it may be nothing at all. But the mainstay of all roads is, or ought to be, the local business, because they were built for the local business, and not for the through business. Thus far, then, it may be said the through business is an “incident.” But I desire to modify this expression, because it might be misunderstood. The road should get along without any through business; the road is primarily built for local traffic. That is the traffic which they can rely upon; but when they see some way of entering another market, of course they go into it. But as the competitive business is a shifting business, you cannot rely on any through business to sustain you, and it is not a safe investment to build a road that could not be sustained to a great extent by its local business.

By the CHAIRMAN:

Q. Many roads that are built are merely connecting lines, links, or roads which have become links in long lines?—A. Yes.

Q. You do not mean that those should be compelled to pay the same

as passengers and freight fed into them from other sections?—A. Oh, no.

By Mr. PUGH:

Q. They do, though. They charge until they make the connection.

AVERAGE INTEREST ON RAILROAD INVESTMENTS NOT OVER 3 PER CENT.

A. I think every road should be allowed to charge enough to pay the interest on its cost; but the average interest earned by the roads in this country is not more than 3 per cent. to the stockholder.

By the CHAIRMAN:

Q. But when a great many roads are making nothing, and the income on other roads is such that the average result is a good compensation or return upon the entire capital—waste capital and all—does it not follow that there must be overcharge somewhere?—A. No, not overcharge.

Q. If one road pays nothing, and another roads pays so much that the two taken together pay 5 or 6 per cent. on their investment?—A. Yes.

Q. Then, does it follow that, since one pays nothing, the other must pay 10 or 12 per cent.?—A. It does not follow that because a road makes 12 per cent. it makes unreasonable charges; it only shows that it has a more profitable business than a road that pays only 3 per cent.

The CHAIRMAN. I will not follow that up now so as to interrupt the current of your narrative. I will come to it later. You say that there is no combination on water-ways, and that there never can be any combination; I mean such combination or arrangement as the railroads are able to make.

WATER-WAYS: NO INDUCEMENT TO COMBINE.

A. Oh yes, they can be made; but the water-lines are in such a position that they cannot make exorbitant charges. Neither can the railroads.

Q. The water-ways among themselves are unable to combine?—A. There is no inducement for water-ways to combine. They are never competitors in the sense in which railroads are. For example, the Erie Canal is not a competitor with the Mississippi River; that is to say, not an immediate competitor. They are competitors in a certain sense—as, for the export business; but they do not come into direct competition with each other. For example, the Hudson River runs through a certain section of country. There are only certain people that can be furnished with accommodations by the Hudson River. But with the railroads it is different; the railroads cross each other in every direction. The rivers do not. The net-work of railroads makes competition very active; one road competes with many others. There is no competition between the several water-ways; there is only competition between the boats on each water-way; but the railways compete with each other all over the country, and in every direction. This makes railroad competition so much more widespread, leading to so many complications that it makes it difficult to prevent competition from becoming ruinous.

EFFECT OF THROUGH RATES ON LOCAL RATES.

You may get a wrong impression when I say that railroads agree upon rates to competitive points only, and leave the local rates to be made by each company as it may see fit. Whenever a through rate is estab-

lished, that, in a great measure, establishes a local rate. Take Mattoon, in Illinois, for example. The Mattoon rates are regulated by the Chicago rates, although Mattoon has no canal. In that way Mattoon gets the benefit of the cheap water rate which is given to Chicago. Now, a railroad could not afford to charge a station 10 or 20 miles this side of Mattoon more than it charges to Mattoon; and so all these local rates in that way get the benefit of competition, and the shipper 10 miles this side of Mattoon gets the benefit of it just the same as if he were at Mattoon. He may have to pay a little more from his station to Mattoon than a pro rata, but from Mattoon on he gets his proportionate rate on the thousand or more miles. Every local rate is really influenced by the low through rate. The local shipper gets the advantage of the through rate as soon as he reaches the competitive point; and in Illinois, you know, there is a competitive point almost every 10 or 20 miles.

STATE BOARDS OF RAILWAY COMMISSIONERS.

By Mr. PUGH:

Q. In your judgment, how has the supervision of State boards of commissioners acted upon the railroad interests and the rates of transportation? That is a broad question, but I want to get your judgment as to the wisdom of supervision of railroads by State boards of commissioners, so far as a judgment may be formed by experience of the operation of that control.—A. There are different commissions in the different States, with different powers, and I would have to speak, perhaps, separately of each. As a rule the commissions are only advisory, and I think that is a most excellent feature, and a very good thing—to have these commissions—because you can explain to commissioners a great many things that you cannot explain to the people at large. It is desirable that the people should have some tribunal to which they could go and make complaints and get them investigated. They make their complaints to these commissioners, and the commissioners confer with the railroad companies. That is a very excellent plan, and if the commissioners are the proper sort of men they will do a great deal of good. The defect of that system, however, is that its work can never reach very far beyond their own State. A great many of the railroad questions are national. Railroad operations are not confined within State lines; and these commissioners, having jurisdiction only within the State, their operations are very much limited and very much hampered, because most of the questions that arise are of broader scope; still, when the commissioners are fair men, they do a great deal of good. For example, the Massachusetts commission has done a great deal of good, and I think the New York commission is composed of good men. They have been getting along very well so far.

Q. Do you not know that commissions exist also in South Carolina and Georgia, and that they have given satisfaction?

THEIR POWERS.

A. In reference to Georgia, particularly, they have a different system; and I believe Alabama has a system like Georgia; in Georgia the railroad commissioners are the controllers of the railroad property. While they have no earthly interest in the railroad, nor in its property, they fix the rates of compensation. That means they actually control that property. They need not care whether the roads make money or not. They have much more interest in making themselves popular

with the people, to secure re-election, or promotion to some higher office by cutting down the compensation of railroads. This may be satisfactory to the commissioners and to the people, but it is not to the railroads; it is not just.

Mr. PUGH. My information, however, is that the railroads in Alabama are very well satisfied with the work of the commission there.

The WITNESS. In Alabama, I do not think the railroad commission has interfered with the rates yet. They have, however, power to do so. In Georgia the commissioners have actually prescribed the compensation which the railroad companies shall receive for their work, the fares for passengers and rates for freight; and that is something that I think is unjustifiable, because property ought to be controlled by the people who own it, as long as they control it in a legitimate and proper way; and there are always means of making them do that without prescribing fixed charges. I believe the general idea of the commission is that they would regulate the charges so that the railroads would get 8 per cent. on the investment. That is what they tried to do; but there are some cases where they have cut down the railroads far beyond that, because they cannot tell in advance what the railroads will get, nor what will be the effect of any specific tariff. I think the principle is entirely wrong, that a State, or a commission appointed by the State, should fix absolutely the charges for the services rendered by a railroad company, because that is controlling the property of other people. The State should own the roads if it wants to control them absolutely.

RAILROADS BELONG TO THE PEOPLE WHO PAY FOR THEM.

Q. You do not agree with Judge Black, that railroads belong to the public?—A. No; I think the railroads belong to the people who pay for them and who take all the risk of the investment. If the State would also guarantee the railroads against losses, then they could fix the compensation. Some of these railroads may have worked for years for nothing without any profit, and the State has never offered to make good their losses; but as soon as a road commences to make some money then the State claims the right to restrict its profits. I do not think this is right. A good rule must work both ways. The State ought to pay the debts of the railroad when it loses money if it wants to control the road when it makes profits.

The CHAIRMAN. If you have any matter in your mind that you want to state to the committee, you may proceed to state it now.

The WITNESS. I was going to give some figures that Senator Pugh called for.

The CHAIRMAN. You may state what you wish to say about those.

AN ANTI-MONOPOLY EXAGGERATION.

The WITNESS. Senator Pugh asked me what an advance of 5 cents in the rate would amount to in the winter carriage on grain. There was an estimate made by Judge Black in his speech before a meeting of the Anti-Monopoly League in New York City, in February, 1881, to which I have already referred. This estimate, however, was given to Judge Black by others. He is not responsible for it. It was put into his hands by the leaders of the Anti-Monopoly League before he went on the platform to speak, and he simply put his name to it. His statement was that an increase in the rate of transportation of 5 cents per 100 pounds on grain alone would amount to \$75,000,000 in the course of a year, and

upon all freights carried by the trunk lines to \$900,000,000. That estimate, however, is based on the ridiculous assumption that the whole grain crop of the country, 2,400,000,000 bushels in the year 1880, was carried for export by the trunk lines. Accordingly not a bushel of grain would have been left in the country, none for home consumption, not even enough to feed the men and animals that were employed to raise the crop, and none even for seed. These are the supposed facts upon which estimates are made by anti-monopolists for political purposes. At 5 cents a hundred pounds or \$1 a ton that 2,400,000,000 bushels, which would weigh about 75,000,000 tons, the additional charge for transportation would be \$75,000,000, and as he estimated other freights carried, including grain, at 900,000,000 tons, the increase of 5 cents in the rate would amount to \$900,000,000. The fact is, however, that the total amount of grain and all other kind of freight, for the time he estimated, that was transported east of the western termini of the trunk lines during the year 1880 was only 11,500,000 tons, instead of 900,000,000 tons. Of these 11,500,000 tons there were only 8,500,000 tons of grain and provisions carried by the trunk lines. At an advance of 5 cents for 100 pounds during the four winter months, the additional charge would amount to \$2,800,000 only, instead of \$75,000,000, and this sum was collected by some forty roads, and does perhaps not represent more than the additional cost of operating the roads in winter time as compared with the cost of operation in summer time.

By the CHAIRMAN:

Q. Is that on the amount that is carried across the water, or all that is brought to the east and carried abroad also?—A. All that is brought east—for home consumption as well as for export—the whole quantity of grain and provisions brought by the trunk lines to points east of their western termini. The grain is about 70 per cent. of all freight that is carried east. I desire to impress these facts upon the committee. That ridiculous estimate, based upon the supposition that the whole grain crop of the country was carried by the trunk lines, and that they could extort such tremendous amounts of money, was published very extensively all over the country. Many people actually believed it, and I suppose believe it now, and of course feel very much aggrieved, and they advocate that proper restrictions should be put upon railroad charges. The estimate of the anti-monopoly leaders, however, was based upon a statement made by Senator Windom in his report on transportation to the seaboard, and which was extensively copied in the press throughout the country. He stated that there were four men who could put up the rates of transportation whenever they pleased, and could tax the people to any amount. He then made an estimate of the whole grain crop of 1872 and 1873, which was 1,500,000,000 bushels. An increase of 5 cents per 100 pounds would at that time amount to \$45,000,000. The later estimate was based on 2,424,000,000 bushels, being the grain crop of 1880, which would weigh about 75,000,000 tons, and 5 cents per 100 pounds, or \$1 a ton, would amount to \$75,000,000. That is the increased amount which they would get if they carried the whole grain crop and provisions at a rise of 5 cents.

INCREASE AND DECREASE OF RAILROAD CHARGES.

The idea seems to be that the railroads always increase their rates and never make reductions. The fact is, that there are always reductions after an increase, and for the last ten years reductions have been

permanent and increase temporary. As I have said, last summer the rate was 30 cents a hundred pounds, while this summer it is only 25 cents a hundred pounds. But, inasmuch as that is in favor of the shipper, the railroads get no credit for it. The same reasoning applied by the anti-monopolist should give credit to the railroads for having made a present to the people of \$75,000,000 when they reduced the rate. The rates fluctuate within very narrow limits now, but have been reduced, upon the whole, in the last few years. I suppose the railroads will never be able to charge more than 35 cents as the highest and 25 cents as the lowest rate. The average will be 30 cents, perhaps; and I do not think they will ever get more, if they get that much. Formerly they received 45 and 60 cents per 100 pounds. In reducing the rates from 60 to 25 cents, the railroads have benefited the people at the rate of \$525,000,000 per year, if we adopt the anti-monopoly methods of estimating.

FAIRNESS OF RAILROAD CHARGES CONSIDERED WITH RELATION TO CAPITALIZATION OF ROADS.

Q. Your statement seems to lead to the conclusion that railroads are not receiving from the people any higher charges for freight and for passenger fares than they ought to have. I observe that you aggregate all the bonded indebtedness with the capital stock, assuming that that represents the actual value or the cost of duplicating the railroad facilities of the country. You say that the aggregate is about \$7,000,000,000, and that the gross earnings upon that sum are about \$700,000,000 annually, the net earnings about \$300,000,000, and that the \$300,000,000 net earnings are divided between \$3,500,000,000 bonded debt at 5 per cent. and \$3,500,000,000 of the stock at 3 per cent. That, in your judgment, is only about a fair compensation to be paid by the people for the use of these railroads, because their fair valuation is about \$7,000,000,000?—

A. I say it is rather low—less than it ought to be, rather than more.

Q. Do you think that that is a fair statement to put to the country as indicative of the relations of the public to the various individual railroad interests as they exist in the country, and which, all aggregated, make up this great whole?—A. I think we have to look at this railroad system as one system and as a whole. You may pick out a great many railroads, of course, and find that some make 8 per cent. and some even 12; but, on the whole, I suppose that we have to deal with the effect of the whole railroad system upon the whole country; this seems to me legitimate.

Q. Do you not think that one-half of this mileage of 112,000 miles could be reproduced, as it actually exists, for a sum not exceeding \$15,000 or \$18,000 per mile?—A. That is impossible. You can hardly get your track down for that; your track and ditching done.

Q. As it actually exists, I mean. Take your southwestern roads, for example, and those in the undeveloped parts of the country—take many of those that have been most cheaply and flimsily built—do you not think that there are thousands of miles where the entire actual expenses would be more than covered by \$15,000 to \$20,000 a mile?—A. You only take into consideration the track and the road bed of a railroad. This forms only a part of the work.

Q. I speak now of the rebuilding of the roads, assuming that they did not exist, taking actual money and going on the ground surveying it, getting your road made, putting on the sleepers and constructing depots as they now actually exist; do you not think there are a great

many thousands of miles of road now in the country that could be reproduced for from \$15,000 to \$20,000 per mile?—A. I hardly think as cheap as that; but there may be some built for \$25,000 per mile.

FAIRNESS OF "AVERAGING" GOOD AND BAD ROADS FOR DIVIDENDS.

Q. With regard to these corporations as they exist, and to their dealings with the public and the dealings of the public with them individually, do you not think it might mislead the public mind to lump them all together?—A. You have to deal with the merits of each road by itself if you desire to determine whether charges are reasonable or not. But if you deal with the railroad question as a whole, you have to take the results of the whole system.

Q. Is it precisely the fair thing, Mr. Fink, to make a New York, or a New England, or an Illinois community pay upon their railroad traffic, respectively, rates that should give a good income upon so many worthless enterprises comprising so many thousand miles of railroad?—A. That is not proposed. I do not propose to do that. Each road must be dealt with upon its own merits. But from general results you can at least come to the conclusion that the roads in the aggregate have not overcharged, when the aggregate results are those that I have mentioned. Single roads may have done so, but they must be in the minority; otherwise the aggregate results would be different.

Q. That is as to the whole railroad construction of the country. But, if capitalists have built railroads into the wilderness, is it fair that the generation doing business to-day in other sections of the country should be taxed enough to make all railroads, as a whole, pay the rates you have mentioned?—A. But I do not intend to do that. That is not intended at all. I only state results; they are not to influence the charges to be made by any particular road.

Q. Yet the net income which the people pay as a whole for railroad service, amounting to what you have stated, and that amount being paid by comparatively few localities—geographically—is it not a fact that they are actually taxed to the extent of paying a large income upon the entire railroad investment of the whole country?—A. Oh, no; that does not follow.

Q. It amounts to 5 per cent. upon the bonds and 3 per cent. upon the stock, does it not?—A. Well, the people of the whole country are taxed to that extent.

Q. Yes. But it is the people of a small portion of the country, relatively, that are taxed to pay upon roads that have been built into a wilderness, and which would not otherwise pay for years to come?—A. Each road is operated upon its own account, and gets what it can get. One road does not charge more to make up the losses of another.

Q. Well, in that way, a road operated here, where there is a wealthy community, must take 6, 10, 12, or 15 per cent.; otherwise it cannot make an aggregate dividend upon the entire amount invested, stock and all, including those roads that pay absolutely nothing. Does it not follow, then, that some roads tax the community 10 or 20 per cent.?—A. When you can show that the roads, all taken together, can pay only 3 per cent. on their stock, I think the conclusion is a fair one that they are not making too much—when all the roads pay only 3 per cent. If there was a preponderance of excessive charges, if that were the rule instead of the exception, it would show in the final result.

Q. I suppose you assume that a great many of the roads (it may be 50,000 miles of them altogether) hardly pay 2 per cent.?—A. A great

many of them pay nothing, and if one-half pay nothing, and the others pay 6 per cent., 3 per cent. would be the average.

WHAT ARE EXCESSIVE RAILROAD CHARGES?

Q. Assuming that to be so, is it not a fact that some of the railroads pay as high as 10 to 20 per cent.?—A. That may be so, but it would not follow that these roads charge excessively.

Q. Yes; but do not those who support the railroads that pay so much, pay more than they ought to?—A. No, not at all. The question is whether their charges are reasonable. I don't think you ought to judge that by the dividend which the road pays.

Q. Does not the fact that a road pays 20 per cent. show that that road charges its customers too much?—A. No. When you find a road paying 20 per cent., it is not in itself proof that it charges too much. You have first to examine what these charges actually are, in order to form an opinion whether they are exorbitant. If, for example, you should find that grain is carried for 25 cents from Chicago to New York, that certainly would be reasonable; and if a road making such reasonable charges could earn 20 per cent., what is it to you what profit the road makes? Whether the charge is reasonable or not is the question only which can concern you. People never inquire into the losses of railroads. If you were willing to make up the losses, then it would be equitable to complain of profits or to restrict them.

Q. Can that be a reasonable charge which enables a railroad company to make 20 per cent. profit?—A. I don't say that it is; I only say that this fact alone is not sufficient evidence of exorbitant charges.

Q. Is it not sufficient evidence?—A. No, not at all.

Q. If uniformly, year by year, they make 20 per cent. on their service, is not that conclusive evidence that they make exorbitant charges?—A. No; the evidence of the reasonableness of the charge is the charge itself, not the profit that a road makes.

Q. If the charges give 20 per cent. profit each year for years in succession, is it not clearly evidence of too much profit?—A. Not necessarily; but as a practical question I do not know any case where they do that.

Q. But I am supposing a case where they do?—A. Well, that only would show that it is a good paying road, and I would like to have some stock in it.

HOW FAR IS A RAILROAD A PUBLIC TRUST?

Q. Do you not understand that a railroad is a public trust, and that it is established for the public good?—A. Certainly, but not exclusively so; it is also undertaken for the good of its promoters.

Q. The corporators of a road of that character you think would do well?—A. Yes; to make 20 per cent. profit.

Q. But a corporation is a franchise that exists by a grant from the public at large, is it not; and is not every such franchise granted upon the fundamental condition that it shall promote the public good?—A. Why, of course.

Q. Very well; then, when that franchise goes to the extent of taxing the public so as to make an unreasonable dividend, so as to produce an unreasonable income, does it not involve the very condition upon which it is granted?

LARGE DIVIDENDS NO EVIDENCE OF UNREASONABLE CHARGES.

A. If the road makes unreasonable charges, it would; but the question is what is an unreasonable charge, and I say that the profits of a road cannot prove by themselves whether charges are reasonable or not. If there is a condition in the charter limiting the profits of a road, of course that settles the question. But if there is no limit in the charter, then the railroad company has a right to charge, within the limits imposed by the common law which obliges them to carry at reasonable rates; within that limit, they have a right to make whatever profit they can. I don't think anybody has a right to interfere with the profits, if the profit was 100 per cent.; of course I do not know any road that makes that profit, but the fact that a road pays large dividends does not show in itself that it charges unreasonable rates.

Q. Not that fact itself?—A. No; not that fact itself.

Q. Suppose the charter contains an express limitation of 10 per cent.; then you would not allow a road to go any further?—A. No.

Q. Why so?—A. Because that was the bargain; it was the contract.

THE COMMON-LAW RESTRICTION ON RAILROAD CHARGES.

Q. Suppose it contains no stipulation, is not the common law a part of the contract or charter?—A. The common law says that common carriers must carry for a reasonable rate. It does not say that you shall make only 6 per cent. or 10 per cent. profit.

Q. But it does say that you must carry at a reasonable profit?—A. Not at a reasonable profit, but at a reasonable rate.

Q. Then there is in every charter, as a part of the charter—because it is part of the common law of the land—a limitation to the charges, to what are reasonable charges, that being the common law. It is, in other words, a part of every charter?—A. Yes.

Q. And it is not necessary to write it into a charter?—A. No, it is not.

A CASE FOR A JURY.

Q. Then, let us start in that way. Assume that a railroad charges to those who patronize it, rates of carriage that enable it to pay a profit of 100 per cent.; and suppose that a man refuses to pay such rates, or pays them in the first instance as matters of necessity, but brings his action against the road for extortion, upon the ground that the company makes it a condition that he should pay 100 per cent. profit or that they would decline to take his freight; and suppose, as a consequence of his refusal, they fail to transact the business of common carriers and he brings this suit at law and goes to the jury; the question would then be whether they are imposing an unreasonable charge; is not that so?—A. Yes.

Q. Now, by what rule is that jury to act upon the question whether that was a reasonable or an unreasonable charge?—A. I suppose the question of interest might then be an element in the consideration, but only an element. It would not be proof in itself.

Q. If they saw that a road made 100 per cent., do you suppose they would hold that to be a reasonable charge?—A. That depends upon a great many other conditions.

Q. Do you not suppose that they might think that a rate of profit something like what is sometimes written into charters—10 per cent.—would be reasonable?—A. Very likely.

Q. So it comes to this, then: that if 10 per cent. is a reasonable profit—and that it is such would seem to be a fair conclusion, because it is put into so many charters—would not the jury say that the common law, in writing into this charter 10 per cent., must control and limit you—or they might say 6, or 8, or 5 per cent.?—A. They might.

Q. If that is a fair compensation for capital, as capital is usually regarded, might not the jury look at it in that way?—A. They might.

Q. Then, if 8 or 10 per cent. is a reasonable reward for the service of a railroad, would it not seem that the profits ought to be limited so as to enable it to earn only 8 or 10 per cent.?

IF THE STATE LIMITS PROFITS, SHOULD IT NOT GUARANTEE AGAINST LOSSES?

A. Yes, if you also guarantee the road against losses; then, I think, it might be just. I think every limitation of profit should be accompanied by a guaranty against losses. The State gives only the right to condemn property. This costs the State nothing.

Q. It costs the people of the State something, however?—A. No; they get their pay for it, sometimes three or four times over. The State exercises its right of eminent domain, not for the benefit of the railroad builders, but simply for the purpose of making the construction of railroads, which the people believe are a great benefit to them, possible at all. Without this right of eminent domain being exercised by the State there would be no possibility of building railroads. That is all the State does. If no condition in the charter is made as to the limit of profits or charges, the railroads are operating under the law of common carriers. They can do nothing that is wrong if the law is enforced. They are simply common carriers like any other common carriers, whether he be a carrier on steamboats, a wagoner, or carries the goods on horseback, or on his shoulders, or in his pocket. The railroads can only be subject to the laws regulating all other common carriers, and these laws contain no limitations of profits. The only question is whether the charges are reasonable, and that must be considered and decided in each particular case. There can be no general law applicable to all cases. As long as the companies conform to the law of common carriers I don't consider that the State or anybody else has a right to limit their profits. It so happens, as we have seen, that there are very few companies that pay 10 per cent., which, as you say, is generally considered a reasonable interest on risky investments like railroads, and that there are limitations in the trade and business and geography of the country, which make all other limitations unnecessary. The average profits of the railroads are only 3 per cent. In the new Territories, where there are only a few railroads and light business, it is possible that some of the companies may make local charges comparatively high, as they necessarily have to be under such conditions; but in this settled country, where there are so many roads, high charges, much less unreasonable charges, have now become impossible. There is no danger that the railroads will charge more than reasonable rates. Corporations, like individuals (a corporation is only an aggregation of individuals), when they carry on the business of common carriers, have a right to make all the profits that they reasonably and legitimately can.

Q. I don't quite see that—under the operation of the common law?—

A. While acting strictly in conformity to the common law their profits cannot justly be limited. This principle is acknowledged with regard to private individuals when acting as common carriers, and should be

recognized with regard to corporations. If you desire to restrict profits, also guarantee against losses, and I will not object to restrictions. But the question we have discussed is really not a practical one. No road ever makes 20 per cent. or 100 per cent. profit.

RAILROADS NEVER MORE PROSPEROUS THAN NOW.

Q. How long have the roads made the income you have mentioned, or substantially that?—A. They make as much now as they have ever made. They have never been more profitable than at present. As a whole, the investment in railroads has not been profitable. Much is said of the right granted to railroads by the Government and of the great benefits the right of eminent domain has conferred upon railroads, but I am sure that there are many stockholders that wish they had never availed themselves of their rights. The question whether a railroad to be built will be of any benefit to the stockholders or not remains to be decided in the future. The parties that build the road take all the risks.

THE STATE TAKES NO RISK.

The State takes no risk whatsoever, but always gets the benefit of the railroad. Whether any profit comes to the stockholders or not, the railroad is there and the property of the people who live along the line is greatly enhanced. Then they get their crops to market where they could not go before. The benefits are all on the side of the State and the people; the burdens and responsibilities and risks are borne by the stockholders, and to them the profits ought to go, if there be any, without interference or restrictions, as long as they comply with the common law. From the records of our experience we find that almost every railroad in the country has gone through bankruptcy. For the five years succeeding the panic of 1873, 20,000 miles of railroads went into bankruptcy; that is, more than 20 per cent. of all the railroads that have been built since the beginning of railroads.

Q. What proportion of the railroads, including those of the Southern States, is comprised between the Mississippi on the west and the Southern States (as they were before the war) on the south, Canada on the north, and the Atlantic seaboard on the east—what proportion of the mileage?—A. I could not give you that information at present. I would have to refer to statistics. Poor's Manual contains this information.

PROFITS OF DIFFERENT ROADS.

Q. My question was designed to lead to another—that is, whether you do not think that the people who live along the roads within the space I have mentioned pay at least three-quarters of the income that is collected from the American people for railroad service, while, outside of those limits, would there not be at least one-half of the railroad mileage of the country?—A. We can very easily find that out. We have statistics that give exactly the earnings of each railroad. I could not estimate it. I only know that there are very few roads that pay large dividends. What you are trying to get at is, whether there are not some roads that obtain excessive compensation and others not?

Q. Yes; and whether it does not follow that although some of the railroads pay nothing, yet the whole of the railroads of the country get very good compensation—quite equal to the compensation received for capital in any other line of investment—whether that fact is not evi-

dence that some of these railroads get too much?—A. We would have to take up the individual railroads and see which of them get too much.

Q. Do you know them?—A. We have a record of nearly every road in the country, compiled by Mr. Poor in a manual which gives exactly the amount of money that each road makes and the dividend it pays.

Q. What is the highest rate of dividend that you know of?—A. I don't know of any road paying higher than 8 per cent., which is paid by the New York Central Railroad. There are some others that pay as much.

SURPLUS EARNINGS.

Q. What becomes of the surplus that is not distributed?—A. There may be a deficit.

Q. Yes, but it is not always so; sometimes it must be pretty high?—A. When a road is borrowing money, I don't think it is evidence that there is a surplus.

Q. Do they borrow money to pay the dividends and to pay the interest on the bonds?—A. Sometimes, it is said, they do. But a railroad is never completed. It has to increase its rolling stock, and it is constantly adding to its facilities for doing business. Railroads are generally borrowers of money.

Q. Is not that calculated for in the \$400,000,000, called operating expenses?—A. No.

Q. Do you mean that the roads are improved out of the \$300,000,000?—A. No.

Q. The \$300,000,000 go in the form of interest and dividend, do they not?—A. Yes. The net income is paid over to the stockholders and money is borrowed for improvements. Different railroads pursue different policies. Some put their net earnings in improvements.

Q. You do not know any other railroad that pays over 8 per cent?—A. No, not that I can remember now.

Q. What extent of railroad is there in this country that pays substantially nothing, or a very low amount?—A. I could not tell without referring to statistics. The information is all compiled and can be readily procured.

THE HIGHEST RAILROAD DIVIDEND.

Q. A memorandum has been sent up to me from somebody in the audience present to the effect that last year the New York, New Haven and Hartford road, and several other railroads and divisions, all paid 10 per cent. on their net investment.—A. I believe they did. I did not think of the New Haven road. They paid 10 per cent. I believe.

Q. Did the New York Central pay 10 per cent.?—A. They paid only 8 per cent.

Q. Do you know whether they reserve any surplus that goes to a sinking fund?—A. Oh, yes; every road has to do that, if there is a sinking fund.

Q. In that way, if there is an excessive charge, it is rather concealed from the eye of the public, is it not; and failing to be distributed, it adds alike, nevertheless, to the wealth of the railroads, does it not?—A. I don't know that it is concealed. It is legitimate to apply the net earnings to the cancellation of your debt.

Q. It is derived, however, from the charges made to the public?—A. Oh, certainly.

ARE RAILROADS A RELATIVELY GOOD INVESTMENT FOR MONEY?

Q. I suppose you hear the somewhat usual statement that goes around every year, that money invested in mercantile business generally results in a failure, sooner or later. It is said that at least 95 per cent. of those who go into business—that is, merchants—fail at some time in their lives.—A. Yes, I have seen some such statements.

Q. Do you know any way in which capital can be invested in which it will pay a better average than 3 per cent.—A. Well, I think our railroad mortgages pay more than that.

Q. I mean to say, outside of railroads?—A. Oh, I suppose there is a good deal of bank stock that pays better, and gas stock; a great many other enterprises, I think, pay more.

FAIRNESS OF CHARGES IN VIEW OF ADVANCED RAILROAD-BUILDING.

Q. It may be that they get more than they ought to get, and it may also be that some railroads do. But the point I aim at is, whether it is a fair presumption for the railroad interest to make to the country to aggregate all the bonds and all the capital stock, and to say that its whole system only pays 5 per cent. on the bonds and 3 per cent. on the stock, when we all know that a great part of this mileage is anticipating business to come, and capital has gone into enterprises that are depending on the business of the future for compensation. If, now, those who are paying for railroad service have got to make a good investment for the future, don't you think they are being taxed too high?—A. I think you have misunderstood me. You think it was proposed that the railroads that do not earn much now should be made to earn the average.

Q. No; that their receipts should be made so much as that there should be, on the whole, a certain average?—A. That would be very desirable, but it is impossible.

Q. You don't get, quite, my idea. I don't say that it is distributed to them all; but for the very reason that it is not distributed to them all, does it not follow that those who get so large a profit get too much?—A. No; you have always to go back to the foundation, and that is: "What are the charges? Are they reasonable in themselves?" The amount of dividend paid does not enter the question at all. It might come in when you find that the charges are very unreasonable. Then, I think, excessively high dividends would be an additional argument to show that the charge is unreasonable. But of itself it is of no importance. If you carry grain from Chicago to New York for 25 cents per hundred, you cannot ask any more than that, and if a railroad does pay 12 per cent. on such work it should not be objectionable to the people.

PROFITABLENESS OF INVESTMENT.

Q. But suppose such work as that pays 20 per cent., is not that too high?—A. I think not. I think that when you take into consideration the charges made by canal, and other considerations, it can be shown that the charge of 25 cents is reasonable; though I don't think any such case as you assume will ever happen.

Q. Suppose it be only 12 per cent. Business men only make 6 per cent., and here is a public franchise out of which men are making 12 per cent. Is not that too much?—A. You have to go back and examine into the history of the enterprise. Perhaps a road has been operated twenty years and made no money; and then, perhaps, it commences to

earn a large dividend; the high dividend would not prove that its charges are unreasonable. Unless you are willing to pay the past losses you must allow the road to make large profits now.

ON WHAT BASIS SHOULD DIVIDENDS BE DECLARED ?

Q. But I am willing that they should have something like fair compensation upon the capital that is invested, provided that the samemen who have put the money in now own the road. If I came along and bought it at a very low rate, I don't think I have a right to tax the public in such a form as to produce a large profit upon the original amount.—A. You don't take into consideration the rate of transportation.

Q. Well, I don't think I ought to tax the people to pay interest on the debts of my bankrupt and defunct predecessor.—A. I don't think that the people have anything to do with how you got the railroad, and what you paid for it. The only question is, whether you make reasonable charges.

Q. But you are arguing that the State has nothing to say as to the rates which should be charged by a railroad until there has been paid 5 or 6 or 8 per cent.—or a fair compensation—upon all the capital that has gone into it from the beginning, no matter whether the road is now in the hands of the same persons that went into it originally?—A. No, I do not say anything of that kind.

Q. I so understood you. In that way you would throw all the losses on the present generation?—A. Well, the railroads cannot collect more at any time than a reasonable charge. If you will always limit the railroad charges to that point, I don't think either the losses or profits have anything to do with the question. But if you want to limit present profits, it is proper that you should consider past losses, and this from the very beginning of the enterprise, no matter whether it is in the hands of the original proprietors or not. The *personnel* of the owners plays no part in these considerations.

“REASONABLE CHARGES,” HOW SHALL THEY BE DETERMINED ?

Q. Is not the very essence of a reasonable charge such that it should yield only a reasonable return on the capital invested by the present owner of the road?—A. I deny the right to limit the profits, no matter who owns the road, as long as the charges are reasonable. As I said before, the dividends paid by a road may form an element in determining whether charges are reasonable; but the previous losses must also be considered.

Q. Suppose the question of corporate ownership to disappear just now, and you individually build a railroad, and you build it for \$1,000,000, and for some reason you fail and the road breaks down, and I buy that road for \$100,000 and go on and run it, ought I to be allowed to charge the public such rates for freight as to give me 6 per cent. or 10 per cent. on your million?—A. I think so. It is perfectly proper if your rates are reasonable, and it is very improper if they are unreasonable.

Q. You don't think that that is an element at all?—A. The fact that you bought the road cheaply is not an element at all. Whether you paid six prices or got it for nothing is not the question at all.

Q. Is not the proper criterion just what you said this morning—that I be allowed to charge the public upon that amount of money—upon what it would cost to replace the road at the present time?—A. I don't

think the cost of the road or the cost of the service has anything to do with it. All you have to see is, whether the rates charged are reasonable. Of course, to determine this there are many elements that have to be considered.

Q. What other?—A. If you show that you carry freight as low as the canal carries it, that, I think, would be satisfactory proof that your charges are reasonable, whether you make 100 per cent. or more.

Q. Suppose that by the invention or discovery of some new power better than steam, and that by the application of that power one-tenth part of the present expense would be sufficient to carry freight cheaper than by water, do you think that this new power should be utilized by the railroad without any benefit to the public at large?—A. Everybody could use it who wants to use it. But the forces of nature are of no use unless you spend money and labor to develop them.

The CHAIRMAN. You hardly answer my question, Mr. Fink.

The WITNESS. I have intended to do so.

Q. What I mean by that question is this: You said that if a railroad carried freight as cheaply as the water routes carried it, that would be an element to you to prove that it is a reasonable charge?—A. Yes.

Q. And I have asked you this question: Suppose a new power or force is discovered by which the railroads can make a living and a profit for one-half of what it now costs to transport goods by water—

The WITNESS [interposing]. That would be a new element in the consideration of what would be reasonable.

Q. In that case you would eliminate the water-route?—A. Yes; in that case you would.

Q. Why should you do it then any more than now?—A. Because we now know that the water transportation is the cheaper.

THE LOWEST RATE IN EXISTENCE SHOULD BE THE CRITERION.

Q. Do you mean that because water transportation is cheaper than railroad transportation the railroad should, for that reason, carry freight and passengers at less than a living profit?—A. No. I would simply state that you take the lowest rate that you find in existence, and if you feel satisfied that it is a low rate, then take that as a measure for a railroad rate, and if you find that the railroad rate does not exceed the water rate largely, or not at all, then that would be conclusive evidence of its being reasonable; because we all know that railroads cannot be operated as cheaply as water routes; water routes are generally free to the public; the Government keeps them in repair, free to every one who wants to use them, while the railroad companies usually have to spend a great deal of money, and have to do many things at their expense before they are ready to use their roads; hence, in the nature of things, railroad transportation must always be more expensive than water transportation. I merely cite that because, when you come to consider what is reasonable and unreasonable, you may use the lowest cost for which the work can be done as a comparison. This is one way in which you may ascertain the fact whether the charges made by railroads are or are not reasonable. If they are reasonable, you have nothing to do with the profits a railroad may make.

Q. Do you think that those are elements that must be considered in determining whether the rates are reasonable?—A. The cost of the work is, of course, an element, but it is not the only element, and may not have to be considered at all if you can establish by other means that rates are reasonable.

Q. I think I understand your views in that matter. Now, you suggested once or twice in your testimony that your association was doing as well as it could until there might come some national legislation. Did you mean to suggest any that might be helpful?

CHARTERING OF RAILROAD ASSOCIATIONS SUGGESTED.

A. I have always thought that if the Government wanted to regulate the transportation business it should charter associations like ours, under restrictions, of course, to see that it would do the proper kind of work and nothing else. This would greatly aid the railroads in conducting the transportation business more satisfactorily to the public.

Q. Do you think that a bill embodying your idea could be put through Congress?—A. I hardly think that the people sufficiently understand the subject as yet. I suppose the railroads will have to go on for some years yet as best they can before anything can be done in the way of legislation. I would not advocate any law as yet on the subject, except that when a number of roads establish a proper and reasonable tariff and publish it, no one road shall be allowed to deviate from it. It is very difficult, though, to detect the violation of agreed tariffs. The railroad companies themselves can do it better than the Government. If our association were legalized and the rules of the association could be enforced, it would aid us very much in preventing a great many abuses in railroad management; but I hardly think it is time for this as yet, and I do not recommend any legislation at present. The roads will have to fight it out with one another, and learn by experience, and establish a higher standard of honor in dealing with each other.

THE REAGAN RAILROAD BILL CRITICISED.

Q. I suppose you have heard of the Reagan railroad bill?—A. Yes.

Q. I would be glad if you would give the committee the benefit of your criticisms on that bill; what you think would be the effect of it on railroad charges and the prices of commodities.—A. I think it is so impracticable a measure that it could not be carried out for one day. It is one of the most impracticable measures that has ever been proposed. Mr. Reagan evidently does not understand the practical working of the transportation business. His intention and the principles upon which the bill is based are all right; there is no difference between us about that; but the carrying out of these principles as he proposes is utterly impracticable. It would simply impede the whole transportation business of the country.

The leading idea of his plan is that each railroad should make a fixed charge for the transportation of any commodity, and that should be the charge under any and all circumstances. For example, if you were to carry lumber over the New York Central Railroad, from Buffalo to New York, and make a certain charge for it, that charge should be for all other lumber, no matter where it came from. The effect of it would be that it would exclude the New York Central from competing for business west of the terminus. When the lumber comes from other places than Buffalo, there are now made different rates from different shipping points, according to the distance and length of other competing roads from the same point of competition.

Just as many competing points as there are, just so many different rates would there be from Buffalo, and the New York Central has to take a prorate of the total rate beyond that point. For example, lumber

comes from Louisville and goes to New York. Now, according to the Reagan bill, the rate that the New York Central can charge for lumber coming from Louisville to New York would be the same as lumber that comes from Buffalo. The Louisville route to New York is a great deal shorter via the Pennsylvania road than the New York Central route, and if the New York Central wants to do any of the Louisville business, it must carry it for the same total rate as the Pennsylvania Railroad, and this can only be at a less charge per ton per mile than it makes from Buffalo. If it does not make as low a rate as the Pennsylvania road, the Pennsylvania Railroad will carry all the lumber to New York, instead of the New York Central carrying a portion of it.

Q. You think that a road that has to carry the material twice as far as another road should be permitted to compete for it?—A. It may be in some cases to the advantage of the people that it should be done that way, but it is certainly not to the advantage of some of the railroads.

Q. Would it not be better to limit each road to the business that naturally comes to it, and by legislation, if necessary, compel the road to carry for reasonable rates, and then let each road take the business that nature seemed to design it for, and if it succeeds let it succeed?—A. That would no doubt simplify matters, but each road claims a right to do business anywhere that it can.

Q. They claim that, but do the public concede it?—A. Yes; the public rather encourage it. It leads to a great many complications, to be sure, and ultimately I do not know that the public profits by it.

THE RATES FOR LONGER AND SHORTER HAULS.

Q. There is another feature in the bill which I desire to mention. It provides that no road shall charge more for the shorter haul than for the longer?—A. Yes.

Q. How would that operate?—A. That is a very correct principle, but there are many cases where it could not be carried out advantageously to the people and the railroads. You will find that in this transportation business you cannot pass a law that will apply universally to all cases. There are so many exceptions that they would be more than the rule.

Q. If that were applied in all cases would it not work well?—A. It would stop competition.

Q. Yes; and what is lost on the cheap rates between the competing lines would be made up on the local?—A. There ought to be no loss on the cheap rates; there ought to be some little profit, otherwise the roads would not engage in the cheap business.

Q. You think, then, that that measure would not be a practical one?—A. Oh, it is perfectly impracticable. It would ruin the railroads, and it would ruin the business of the country completely. You would have no competition, and you would have only local rates.

Q. Does it make any provision for fixing the rates—limiting the rates?—A. No; it only fixes the rates so that you cannot vary them to suit the exigencies of competition.

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GOVERNMENT CANNOT FIX TRANSPORTATION RATES.

Q. If the bill were so amended as to vest in some national tribunal the power to fix the rates, would that be an improvement?—A. No, it would not; you cannot fix transportation rates. We carry grain this

season for 25 cents a hundred pounds, while last year we were paid thirty cents. Now, if you had fixed the rates at 30 cents last year you would still have to pay 30 cents, and at that rate you could not now carry any grain.

Q. I take it, from what you say, that you think the Government should have nothing to do with the railroads at all?—A. Oh, no; I think they should see that the railroads are properly operated in accordance with the laws regulating common carriers.

Q. But I mean with the management of them—the fixing of the fares and freights?—A. No; I think that is better arranged by the railroads than it could be by the Government. It is a very complicated question, and the Government is entirely unfit to attend to it.

HOW GOVERNMENTAL CONTROL WORKS ABROAD.

Q. In some countries the government owns the roads and contrives to fix the fares and freights?—A. Yes.

Q. And they seem to fix the rates satisfactorily?—A. Just as unsatisfactorily as here. I was reading a German paper only last night, in which there were bitter complaints on this very subject. If the German people want to get a rate changed they have to go first to the chamber of commerce, which has to take action, and then present the case to a council, and then to another council, and so on, and perhaps they have to wait for two or three years before they can get an answer. We do this kind of work here in a day.

RAILROAD CHARGES NEARLY TWICE AS HIGH IN EUROPE AS IN AMERICA.

Q. Let me inquire whether, relatively to everything else, railroad rates are dearer or cheaper in this country than abroad?—A. I can state positively that rates are nearly twice as much in Germany and in England and in other countries as they are here. In 1880 nine-tenths of one cent per ton per mile was the average charge in the State of New York for freight transportation, while in Belgium, which has mostly level roads, it is one and sixty-five hundredths cents per ton per mile, and in France one and a half cents per ton per mile.

Q. Does that apply to all the roads?—A. Yes; and in England it costs as much to carry dressed beef from Glasgow to London as it costs here to bring it from Chicago to New York—double the distance.

Q. What are the corresponding rates in this country?—A. The average here is not more than nine-tenths of one cent.—at least as to the eastern roads, I am sure—of the roads east of the Missouri.

Q. Nine-tenths of a cent per ton per mile?—A. Yes; nine mills per mile.

Q. And how much is it in Germany?—A. In Germany it is double that rate. In Belgium it is 16½ mills; in France 15 mills. In this country we have the cheapest railroad transportation in the world. In the East Indies they have lately reduced the rates for wheat from the interior to the seaboard, so as to bring them nearer to our rates and better compete with our rates from the West to the seaboard. You see from this how widespread railroad competition is, and how ignorant people are when they say railroads have no competition and can charge what they please.

RAILROADS AS OWNERS OF COAL AND IRON MINES.

Q. Do you know anything of instances in which railroads own mines—whether coal or iron—which constitutes a large part of the freight of those same roads?—A. Yes; I know there are such roads, but I have no personal experience with their operation.

Q. Do you have occasion to arrange rates of freight along any such lines?—A. No. I believe the Pennsylvania road owns mines. But that is a local matter, and I don't come in contact with that part of the business. The Reading Road and the Lehigh Valley and the Lackawanna are roads that are interested in mining.

Q. What is your idea as to any extensive railroad building in this country in the future; is our system substantially complete, or shall we need more lines—considerably more filling up?—A. Of course our system will have to lengthen out as the population increases. I don't think we have come to a stop by any means. If the increase of population keeps on there must be an increase in the railroad facilities.

Q. Will you please repeat once more your statement in regard to the charge per ton per mile in this and other countries?—A. In the State of New York, on all the roads put together (I cite that because I have it in my mind now), the average in 1880 was 9 mills per ton per mile. In Belgium 16½ mills; that is, 7 mills more than the rate here. In France it is 15 mills, or 6 mills more than the rate in this country.

Q. Did you mention Prussia?—A. Prussia's rate is, I think, nearly twice as high as ours; I won't be sure of that, however.

Q. How about Great Britain?—A. Well, they charge as much from Glasgow to London for dressed beef as we charge from Chicago to New York.

Q. And what is the difference in distance between them?—A. From London to Glasgow is about 400 or 500 miles. The railroad charges in this country are the lowest of any.

COST OF RAILROADS, RELATIVELY, IN EUROPE AND AMERICA.

I ought, perhaps, to have mentioned, when speaking of the cost of railroads in this country, that \$60,000 per mile is not too much, if you compare it with the cost of European railroads. You will find that for the most part the people in Europe have paid twice as much as we have paid here. The lowest of European roads in cost are those of Italy, and I think they cost about \$90,000 per mile. In Germany they cost about \$100,000 per mile, and that is about the average cost of a railroad in Europe—\$100,000 to \$120,000 a mile. But in England the cost is about \$200,000 a mile. Our railroads are not built so substantially and ornamentally as theirs, but ours do the work required of them just as well, and cheaper.

By Mr. PUGH:

Q. What is the reason that there is so much difference in the cost of the road?—A. Because they build more substantially in Europe. They spend money uselessly in monumental buildings, where we get along here often with temporary work.

RELATIVE SAFETY OF EUROPEAN AND AMERICAN RAILROADS.

By the CHAIRMAN:

Q. Are they safer than ours?—A. No, I don't think that they are any safer. The roads of this country are now very much safer than they used to be. They have as many accidents in Europe as we have here.

GOVERNMENT PURCHASE OF RAILROADS.

Q. What is your belief as to the effect upon the vast interests of the country if the General Government should buy out the railroads—own them themselves—if they should pay for them a fair price and take control of the transportation business of the country?—A. My idea is that it would be a very sorry day for this country when this is done.

Q. What makes you think so?—A. Well, it is hardly necessary to explain that a Government constituted like ours cannot run railroads. In Europe they may do it.

Q. This Government runs the post-office, you know?—A. Yes, but railroad operation is much more complicated than the management of the post-office. The postal service is only a small branch of railroad business. It seems to me so self-evident that the Government should not own and operate the railroads, that I can hardly get myself to reason about it. I do not see any necessity for considering the question.

The CHAIRMAN. Some gentlemen who within a few weeks past have sat where you now sit have given many reasons why the Government should own them.

The WITNESS. Well, there are a great many reasons why railroads should be under one management. That would be an excellent thing to accomplish, but it cannot be accomplished under our Government. The gentlemen who advocate this don't know anything about railroad management, or they don't know anything about our Government, or don't know anything about both. In the old countries, where railroads are run by the state, the state establishes schools in which it educates the officers of all grades. The method of education and advancement in the service is similar to our Army system. After railroad officers are too old or disabled, they get a pension. Thus the state secures a corps of officers that devote their whole lives to the service. They get little to live on, but are satisfied. All this would be impossible in this country, from the very nature of our Government—its political character, with its changes in office, the rings, etc.

Q. I will not ask you to go into the metaphysics of the thing any further.

STRIKES.

I would like to ask you now whether you have had experience with laboring men?—A. I have had a great deal of experience for at least thirty years with the laboring classes.

Q. Have you ever come in contact with strikes or any difficulties of that kind?—A. Yes, I have had something to do with strikes, and they are disagreeable things to have.

Q. As far as you have observed, what have been the influences leading up to them?—A. There are strikes to secure higher wages sometimes, and at other times for enforcing some particular rules on the employer—rules that I thought were not altogether fair—such as limiting the number of apprentices.

Q. The resolution of the Senate under which this committee is acting directs us to inquire into the causes and consequences of strikes, and to get any suggestions that we can that may be serviceable in preventing their renewal hereafter. I would like to have you give us your ideas in regard to this labor question and in regard to trades unions and the like.—A. Really, my experience with labor organizations has been limited.

THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS.

I have had something to do with the Brotherhood of Locomotive Engineers; when it was newly organized they were rather prone to exercise the powers which they had acquired by acting unitedly. They, however, were made to see their mistake, and acted more conservatively afterwards. The experience of the locomotive engineers led them to abstain from strikes, and to settle all their difficulties peaceably with their employers. I have not been actively engaged myself in managing railroads for the last five years, and have not been directly in contact with the workmen; but I think that organization on the whole has done a great deal of good among the men, and brought them up to a higher standard. When they have any difficulties or complaints they are very conservative in negotiating with their employers, and try to get what is wrong made right, and they are always met by their employers in the best spirit. The railroad officers have no reason for oppressing their workmen. They are in the position of mediators, rather than actual employers.

Q. Do you think that the great industries of the country, such as railroads and other industries, make the provision that they ought to make for their laborers in case of accident or disability, or perhaps old age?—A. They have not done much yet in this direction.

Q. What ought to be done in that matter, do you think?—A. The Baltimore and Ohio have set a good example by instituting an insurance company among their employés.

Q. Is that a contribution out of his wages, or does the company contribute?—A. The Baltimore and Ohio Company, I think, contribute one-half to the fund.

Q. To whom is that fund available?—A. That I cannot tell you, but generally it is for the old and disabled. In France they have had a similar system in operation, and I think it should be adopted more generally here.

GOVERNMENT CONTROL OF RAILROADS IN FRANCE.

Q. Do you know the nature of the Government control over the railroads in France?—A. Yes.

Q. What is it?—A. Most of the railroads in France, really, I might say, belong to the Government. The roads are built generally by the Government guaranteeing a certain amount of interest on the investment—I believe 5 per cent.—to the railroad corporation. In that case, of course, it should have the right to regulate the rates, because it has to make up all the deficiencies in income. But it allows the railroad companies to earn as much more as they can, under the restrictions, however, of a tariff approved by the Government. The Government inspects and approves the tariff; the company only suggests it. The Government has not even the right to fix the tariff absolutely, but the initiative in making tariffs is with the railroad companies, and the Government can approve or not, as it pleases. Under the French control of railroads, the people are just as much dissatisfied with railroad management, and perhaps more so than they are here. Under the system under which French railroads were built competition has been almost impossible. They built railroads from Paris to each part of the country, the roads all centering in Paris. But they made no connections between those various systems, and so each road has a territory for itself. They do not come into competition with each other.

TRADES UNIONS—THEIR EFFECTS.

Q. Reverting again to the trades unions generally, what, in your opinion, is their operation on the laboring classes?—A. I think that they are very beneficial if they would restrict themselves within legitimate operations. They can do a great deal of good in advancing the interests of the workingmen and educating them to a higher standard of perfection.

Q. And as they do that, do they qualify them to demand and receive a higher rate of wages?—A. The wages are generally regulated by the merits of the men. The superior workman commands higher wages.

Q. Then if they improve the general condition of the workingmen as a class, the men would be likely to receive more pay, would they not?—A. I think that would be the tendency.

THE STANDARD OIL COMPANY.

By Mr. CALL:

Q. Do you know anything about the relations between the Standard Oil Company and the railroads on the lines having connection with that company?—A. I never had any personal connection with that business; but, of course, I know from general information a great deal about it.

Q. You know the charge has been frequently made in Congress that there was some arrangement or combination between those lines by which all private enterprise in that business was destroyed?—A. Yes; that may indirectly, perhaps, have been the result, but it was not contemplated by the railroads. This is one of the clearest illustrations that can be found of the bad effect of unrestricted competition between railroad companies and the good effect of such an institution as we now have. If there had been such an institution as the association that I am connected with, the Standard Oil Company could never, perhaps, have found an existence. They built up their fortune first by going to one company and getting a rate from them, then going to another company and getting a lower rate, and as the railroads were anxious to buy their business by one offering lower rates than the other, they were bidding for this particular business, while the regular business was made to pay higher rates. Now, if those three or four companies had come together at the time that this Standard Oil Company was ready to make their shipments and had fixed a common rate by all roads, or if they had "pooled" the business so as to remove all motive for making lower rates solely to the Standard Oil Company, all the difficulties complained of would never have happened.

THE DRESSED-BEEF MONOPOLY.

The same difficulty of building up monopolies by competition between railroads has occurred partially with other business. This railroad competition has helped to concentrate the live-stock and dressed-beef business into the hands of a few men. We have been able to improve somewhat upon these conditions. But the tendency of these competitive fights between railroads always has been to build up a few shippers, who by degrees can monopolize the whole business of the country. Instead of giving open and the same rates to everybody under like conditions, private contracts are made to secure certain individual large shippers on better terms than is given to the general public. It is this

injurious effect of competition that we desire to prevent by our combinations.

Q. Do you think any private arrangement or private association such as yours, having no authority in law, is strong enough to control a corporation against powerful pecuniary interests associated in the form of the Standard Oil Company?—A. After the railroads had built up that company they had no power to control it. On the contrary, the Standard Oil Company controlled the railroads. But they never could have got that power if the railroad companies had adopted a wiser policy instead of allowing themselves at first to be used one against the other, and instead had acted concertedly, and pooled this traffic—which they afterwards did, but too late. There is nothing to be done now, I suppose. The Standard Oil Company is independent of the railroad companies. They have their pipe lines and ship no crude oil by railroads. But at the beginning there was not any design or intention on the part of the railroad companies to help the Standard Oil Company.

RAILROAD ASSOCIATIONS PREVENT SUCH MONOPOLIES.

What they did was the result of competition between the railroad companies, each trying to secure this traffic for itself; buying it, as it were, by reduced rates. It was this sort of competition which worked the harm. The Standard Oil Company took advantage of this competition and got better rates than the public. The very object of our association is to avoid this.

Q. Your association, as I understand it, is one constituted by the voluntary adhesion of each railroad?—A. That is all. Each road can withdraw from it when it pleases. They can only be held together by motives of self-interest.

Q. They have a fund, I suppose, to sustain the association?—A. Yes, they contribute to the expenses, each according to the amount of business it does.

Q. Have you found that system to be efficacious in the preservation of rates reasonable to the public at large and compensatory to the railroads as well?—A. Yes, it has been so thus far. Its operation has been by no means perfect, but a great deal of good has already been done. We have had only one of those unfortunate railroad wars, and that lasted some nine months. It was in 1881. Since that time we have avoided this strife and have maintained reasonable rates of transportation more uniform and permanent than before.

ADVANTAGES OF INCORPORATION OF RAILROAD ASSOCIATIONS.

Q. I think I understand that your idea as to Government control is in the fostering and encouraging of such an association as yours?—A. Yes, in making it a legal association—in incorporating it as they have incorporated a somewhat similar association in England.

Q. In order that it may have a legal effect for its agreements?—A. Yes, that is all. Whenever railroad companies enter into a legal agreement, it should be enforced by law as any other contract. At present, I suppose, most courts would say that it was against public policy to incorporate such an association. This is because they do not understand, really, the practical working and object of such an association; so we have to battle on in the best way we can, without the sanction of the law and against public prejudice.

Q. Your idea is that of a voluntary incorporation of railroads?—A. In

groups; there are certain groups of roads that work together, forcing nobody to join them but letting everybody who wants to come in; and whenever they do come in and make an agreement they should be compelled to keep it. There need be no compulsion to join in these associations.

Q. You think the advantages of such an association would be to have everybody join it?—A. Yes, that would be the natural effect. In England, I believe, they started with only a few companies, and now they have all the companies in England, I believe, or nearly so.

Q. You are further of the opinion that the existing roads could not now be built for the present capitalization—\$60,000 a mile?—A. Yes; I don't think that that is an excessive amount of capitalization.

Q. And that the amount paid on that is about 3 per cent.?—A. Five per cent. to the bondholders and 3 per cent. to the stockholders.

RELATION OF STOCK AND BONDS TO ACTUAL COST.

Q. What proportion of that stock is stock that represents any real value—stock paid for; stock that was not made by the credit of the franchise—by bonds issued and roads built upon a pledge of securities?—A. I don't think that the cost of railroads could have been much less than they are now capitalized at; that while some stocks have been watered, other stocks have been retired.

Q. What proportion of them are stocks that have been watered, as you call it?—A. I could not tell you that, and I believe nobody can tell; but I only judge from the average cost of roads that it could not have been otherwise than that the watering and retiring must have very nearly balanced each other.

Q. You feel very confident that \$60,000 a mile would not be an excessive value for building a road at the present time, and equipping it?—A. The average road; of course some roads can be built much cheaper; but you must not forget to consider the cost of the equipment, of terminal facilities, of interest during construction and discount on securities.

Q. That amount you consider represented now by the present capitalization of the roads?—A. Yes, about \$60,000 a mile.

STOCK WATERING ON RAILROADS.

There is so much said about stock watering that I wish to refer to it. Of course, the capital stock of railroads may be increased legitimately and the term "watering" should not then be applied. There are many roads that when first built were unfinished. Generally when the rails are first laid the road is considered finished. But the expense has only commenced then. Most roads are only temporarily built, and in the course of a few years all the net earnings that the road makes, if any, are used to finish it. It is proper that the amounts so expended should be charged to capital. Stock may be issued either in the shape of dividends or otherwise, to represent the money that the road has earned and has put into the property to increase its value.

By the CHAIRMAN:

Q. You mean provided the original capitalization did not represent the value of the road after these improvements are made?—A. I take it for granted that the original road was built upon a stock subscription, and that it was finished by the time that the money realized from

stock subscriptions gave out. The road may have had, perhaps, to run several years before they earned anything, but all the net earnings were used in building and in finishing the road and acquiring rolling stock, etc. If they then issued stock to the extent of the amount of money thus expended, that would not be watered stock; it would not be wrong to issue such stock. It is difficult now to tell in each case under what conditions the stock was increased, and that is the reason why it is impossible to tell what stock is really fictitious and what stock represents property. Unfortunately, there has arisen lately the system of building roads on watered stock, when bonds are sold and a certain amount of stock thrown in as a premium. Some of these roads are built simply on speculation and for the purpose of making money out of people who are foolish enough to buy the securities, while the originators generally get out before the road goes into bankruptcy. Unfortunately, there has been a good deal of that sort of railroad building lately, and a stop ought to be put to it if possible. But really this is done by speculators. The old railroad companies do not like it.

By Mr. CALL:

Q. But the railroad is built?—A. Yes; there is some good in this. The railroad is built, and some people get the benefit of the roads, but others are punished.

SPECULATION IN FOOD PRODUCTS.

By the CHAIRMAN:

Q. I suppose you must understand this question of the effect of the operations of the Produce Exchange and the speculators who deal in the prices of food?—A. Yes.

Q. That is quite a subject, and there is here a witness whom we expect to testify to-night, and it is quite inconvenient for him to come again. Can you come in again and give us your views on that subject?

—A. I cannot give you any more light than you have. The New York legislature has investigated already this subject of corners.

Q. But it is contained in a volume of about a thousand pages, and we have not got a thousand years to read it in.—A. In my opinion this speculative mania is very much to be regretted.

Q. Please give as nearly a categorical answer as possible to this question, leaving it without explanation, or at least without much explanation: Whether you think that these operations are a benefit or an injury, on the whole, to the laboring class—the consumers of food?—A. I don't think they have any permanent influence on the price of the necessities of life. They may cause temporary increase in the prices of food, but it is only to have a corresponding reduction to follow.

Q. Taking the whole year together, you think it has no effect?—A. It has little or no effect upon the whole year's transaction.

The CHAIRMAN. Is there anything else that you desired to say?

“CHARGING WHAT THE TRAFFIC WILL BEAR”: MEANING OF THE PHRASE.

The WITNESS. The only thing that I would like to state is in regard to the complaints made that railroads charge for their services all the traffic will bear.

The CHAIRMAN. Yes, that is the basis for an expression which I think has passed into general currency.

The WITNESS. Yes. It is a plank in the platform of the Anti-Monopoly League. I would like to explain this matter if you have time.

The CHAIRMAN. You had better do so.

The WITNESS. This complaint arises from a misunderstanding of the principle on which railroad tariffs are made. It ought to be said that the railroad companies do not charge more than the article will bear—perhaps that would come nearer to the truth. Few articles are now carried at much more than the actual cost of transportation, if you take in consideration the interest charges. For example, take grain. If we were to charge the cost of transportation, we would have to charge at this time, perhaps, 35 cents per hundred pounds. That would cover the cost of doing the work, and at the same time allow for interest on the investment. Instead of that, we carry grain for 25 cents per 100 pounds from Chicago to New York. This is because we do not charge more than the article will bear. Of course we could not do otherwise if we intended to. On the other hand, we carry dry goods, for example, at 75 cents. We charge more upon dry goods than upon grain, simply because the article will bear it. There is no injustice in charging for that service that amount of money—the service is worth the money that we charge for it, if we estimate the service according to the value to the consumer. We cannot charge more than 25 cents for grain, and in order to average the earnings so as to cover the cost of operating the railroad, we have to charge more on other articles. A suit of clothes, for instance, weighing 12 pounds, is carried for 8 or 9 or 10 cents. That is a charge that it will very well bear. It does not cost very much more to carry a ton of dry goods than to carry a ton of grain. Of course it costs some more, but not enough to make so large a difference in the charges. It is necessary that we should tax the goods that will bear a larger transportation rate, in order to pay for those goods that we have to carry for an insufficient profit.

“COST OF SERVICE” NO CRITERION FOR CHARGE.

This is the only way in which railroads can be made really useful to the country. This idea that the railroad company should charge the cost of the service is perfectly ridiculous in itself, because they cannot get the cost of the service now, as I have shown, and nobody wants to pay more than they pay now.

I hardly think that 3 per cent. is a sufficient compensation for the stockholders in railroads in this country for the capital they invest—taking into account all the risk of the investment—but if the people are willing to make up all the losses so as to give them 6 per cent. there would be no objection on the part of the railroads. The tariffs then could be made alike on silk, and grain, and coal, and every other article. If each service should be paid according to its cost it would be a most delightful way for railroad companies to manage their railroads. It would be so simple to make the tariffs on so much per ton per mile, whether silk, or grain, or coal.

But the effect of that tariff would be that most of the important articles now carried over the railroads could not be carried at all. The grain could not stand the average cost of transportation; and so with many other articles of transportation. I estimate that the average cost between Chicago and New York is perhaps 40 cents per 100 pounds on grain, perhaps 35 cents, but we carry the great bulk for less than that; so that the principle that railroad charges should be based on the value of services rendered rather than on the cost is, I think, the correct one,

and instead of this being made a point of attack on the railroads, I think it is the only principle that will lead to the full development of the country—the principle of carrying business at rates that it can pay. Some articles will yield no profit, while others, such as luxuries, will make up for the loss; all taken together will pay the cost of transportation. That is the principle that is followed not only here, but in every other country. Any other principle, if adopted—as the Anti-Monopoly League desire—would be simply ruin to the best interests of the country. You could not develop a country under it. This principle of charging according to the value of the service rendered is adopted in all countries, and is practiced, I suppose, by all individuals in all mercantile transactions.

I believe that in England, in olden time, on the turnpike roads and highways the tariff was not the same for all vehicles that passed over them. A pleasure carriage had to pay twice as much toll as a freight wagon, although it is lighter and does less damage to the roadway. That principle was recognized on the public highways there constructed by the Government. It was recognized on the Erie Canal, owned and managed by the State of New York—different toll for different articles, although the cost for use of the canal could not be different. For lumber and coal, for example, there was a lower toll than for other articles. On salt they had a toll one way which was higher than the toll the other way. All these distinctions are recognized on public roads owned by the Government. The attempt to show that the railroads are wrong in adjusting their tariffs according to the value of the service rendered is based simply upon the grossest ignorance of the correct principles upon which transportation charges should be made.

There is another subject upon which I would like to make some remarks, and as the committee desires to hear another witness this afternoon, I will be as brief as possible.

COMPOSITION OF RAILROAD TARIFFS.

The charge is made that the so-called watering of stock has the effect of increasing the cost of transportation, and that the public is required to pay dividends upon this watered stock. I wish to explain that this is not true. It does not make the least difference what the indebtedness of a railroad company is in arranging tariffs. The policy of every road is, and must necessarily be so, to make the greatest amount of money that it can make legitimately. I have fully explained the conditions under which tariffs are made. They are commercial conditions entirely independent of the stock liability of the railroads. I have shown that the tariffs are not based on the cost of the service or on the indebtedness of the company. If the rule was established that the cost of the service should be the basis of all tariffs, then the watering of stock, increasing the capital of a company fictitiously and endeavoring to pay interest on that increased capital, would of course increase the transportation charges, and the complaint would be a just one. As it is, the watering of stock may be done with a view to stock speculation, and may affect the interests of investors and speculators, but it does not affect the interests of the patrons of the road. The assertion that it does shows nothing but ignorance of the facts, and I challenge any one to produce a single instance where the watering of stock has been followed by an increase of transportation charges.

The anti-monopolists in New York are constantly asserting that the workingmen have to pay interest on the increased stock of the New

York Central Railroad, and this assertion is made in the face of the fact that since that increase took place the freight transportation charges on the New York Central Railroad have decreased nearly 50 per cent., showing how groundless these complaints are. I wish it understood that I am utterly opposed to stock-watering—that is to say, when an increase of stock is not based upon an increase in the cost of the property; but what I wish to demonstrate, and believe I have done so, when I spoke of the principles that underlie the making of tariffs, is, that the shippers or the patrons of the road are not injuriously affected by stock-watering. The investors in these properties may be deceived, and the watering of stock may be used as a means for illegitimate speculation, and transactions of this kind should be, and are in some States, forbidden by law, but the cost of transportation and the cost of supplies to the workingmen is not thereby increased one iota.



INTERSTATE COMMERCE.

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ARGUMENT

BEFORE THE

COMMITTEE ON COMMERCE

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES.

BY

ALBERT FINK.

WASHINGTON, JANUARY 26, 1884.



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1884.

ARGUMENT OF MR. ALBERT FINK.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: Your committee has under consideration a number of bills that have for their object the regulation and management of railroad companies in the interest of the people, and the remedy of abuses supposed to exist in the conduct of the railroad transportation business.

The problem is one that has been repeatedly considered by Congress and State legislatures, and not only by the legislative bodies of this country, but those of all civilized nations; and yet up to this time little progress has been made toward its final solution. This fact alone suggests the difficulties and intricacies of the questions with which you are to deal.

The best intellects of all civilized nations where the modern transportation system has been introduced have grappled with this subject, but they have not thus far succeeded in accomplishing the desired end. If your committee or Congress should be so fortunate as to be able to suggest a solution in the sense as popularly demanded, you would establish a claim upon the gratitude of all mankind.

But it is hardly reasonable to expect that your committee during the session of Congress, and occupied, as you must be, with so much other important work, can accomplish that which the united labor of the best minds of many nations have been unable to accomplish in the last thirty years. It is not to be expected that your committee would be prepared, upon so short an investigation, to recommend effective legislation upon a problem that is as intricate as it is important, and which certainly should not be dealt with lightly or superficially.

In the short time that I am allowed to occupy your attention, I shall only attempt to explain the principles involved, and the general features of the problem, and its great complications and difficulties, simply with the view of demonstrating that the subject is entirely too large to be dealt with by your committee during the short session of Congress; and the only recommendation I propose to make, which I shall sustain by my argument, is, that your committee continue its investigation after the session of Congress, or that a special committee be appointed for that purpose, or a permanent commission, empowered to thoroughly investigate the subject, and report to Congress the proper measures to be adopted, if any, to control the railroads of this country in the interest of the people.

Among the several bills which have been introduced, and are before your committee for consideration, is the one introduced by Mr. Horr (H. R. 79), which, it appears to me, proposes the only practical measure that, at this stage of the problem, should be adopted.

The bill introduced by Mr. James Wilson (H. R. 2012) is of similar import and is also unobjectionable.

Mr. Horr's bill provides for the establishment of a board of commissioners of interstate commerce as a bureau of the Interior Department. The sixth section of this bill provides:

"That said board shall in all ways endeavor to procure the data necessary to the gradual enactment of an intelligent system of national legislation, regulating interstate commerce, and shall make an annual report of its doings to the Secretary of the Interior on or before the first day of November of each year."

If this bill could meet the approval of your committee, and should become a law, it would not be necessary for me to discuss the many other measures proposed in the various other bills, and which enter more or less into the details of practical railroad management.

In order that the proper measures may be adopted, it is necessary that there should be a complete understanding of the whole problem, its difficulties and intricacies. I believe that the bill proposed by Mr. Horr would not only be satisfactory to the railroad interests of the country, but that it would meet the approval of all conservatively thinking citizens.

I may be allowed here, as an expression of public opinion, to read an article from the New York Times, of December 23, 1883, which fully expresses my own views:

"The question of regulating interstate commerce by national authority is likely to be urged upon the attention of Congress with new force during the present session.

It was commended to that body for careful consideration, by the President, and there are few subjects with which it has to deal so calculated to awaken interest among the people. Among the bills already introduced is one by Senator Cullom, of Illinois, which starts with the right idea. Serious mistakes are almost sure to be made if Congress begins with radical measures of restriction. The problem is one of immense extent and great intricacy, and there are very few persons in Congress who have a thorough understanding of it. The understanding necessary to a prudent treatment of the subject cannot be obtained through the kind of debate that is evoked upon measures prepared by single members or in committees, even after the most extended 'hearings' that it is practicable to give. Neither would a special commission appointed to investigate and report conclusions best serve the purpose. Whatever legislation it might recommend there would remain the need of a supervisory body to have charge of its execution. A commission, to be of value, must be a permanent one, with all necessary powers for inquiry and examination, and the measures to be adopted should be the results of its observation and practical experience.

"There are certain principles which are sufficiently clear to start with. The work of State commissions needs to be supplemented by the national authority, which alone can extend supervision to the traffic that passes from one State to another. Some means of inquiry and publicity regarding this kind of traffic is needed in order that its management may be more fully understood and brought before the public. Unjust discriminations of every kind and degree should be subject to official exposure and remedy. A commission, therefore, such as Senator Cullom proposes, with power to collect information, hear complaints, and make reports and recommendations to the Government, affords the best means of beginning the work of regulation. Such a commission, if composed of competent men, would prepare the way for such a system of regulation as would be found to be adapted to the requirements of the case. No man or body of men can devise such a system without first having the opportunity to make a thorough study of the interstate railroad problem in all its phases. No man or body of men is likely to make the necessary study unless put in a position where it will become a duty and a business to do so, and where the advantage and support of official authority may be had.

"A carefully chosen commission, which should go to work in the right spirit, would first set itself to the task of gathering full information regarding the railroad system of the country and the methods under which, as a whole and in its parts, it is managed. Alleged abuses would be brought to its attention and duly examined, and the difficulties which stand in the way of their remedy would be fully studied. The publicity which would be given to the affairs of the railroads would of itself exercise a restraining influence of no inconsiderable power. But the greatest gain would appear in that thorough knowledge that is necessary as a guide to prudent action. The commission would ascertain, as can be ascertained in no other way, just what the abuses and defects of the system are, and how far and in what way they can be most effectually remedied. Such a body, when it had mastered its problem, would be apt to deal with it in a cautious and prudent spirit, but the results would be all the more judicious and safe.

"First, give us the commission, with general powers of inquiry and supervision, making sure that its members are capable and upright men, who will be guided solely by an enlightened view of the interests of the whole people; and then let them work out the problem and suggest the restrictive and regulative measures which they may find to be necessary to perfect their work. It may as well be suggested that men of the right stamp cannot be secured by offering them as a consideration for their services a fraction of what a single railroad company would pay for like qualifications. The salaries proposed in the Cullom bill are entirely inadequate."

I fully indorse all that has been said in this editorial.

To fully analyze the various measures proposed in the several bills before your committee would be a work requiring much time. These bills should be referred to a commission who could devote to these questions several months of thorough investigation and make a report, perhaps to the next Congress as proposed in section 6 of Mr. Horr's bill.

I do not propose to enter into details, but I intend to refer in a general way to the difficulties encountered in attempting to solve the railroad problem.

The first question to be considered is: What are the just demands of the people with which the railroads are expected to comply? The railroads were constructed for the purpose of furnishing roadways, over which their owners were to carry on the business of transportation; that is to say, the business of common carriers, and they ought, therefore, to comply with the requirements which are made upon common carriers.

The common law clearly defines the duty of common carriers, and the definition is so simple that it leaves no room for misunderstanding, viz:

First. These railroad companies, acting as common carriers, are to perform services for the people at a reasonable cost.

Second. The charges shall be just and equitable.

If the railroads comply with these requirements, and confine themselves strictly to the business of common carriers, they do all that the people can reasonably demand of them. No additional legislation or interference on the part of Congress or State legislatures would be justified in that case.

The questions, therefore, that present themselves for investigation by Congress are: Have the railroad companies, as far as the interstate commerce is concerned, complied with these requirements? If not, in what respect have they failed, and what is the reason for this failure? Is it willful neglect of their duties, or is it due to causes beyond the control of the individual railroad companies? If willful neglect, the common law should be sufficient to enforce compliance. But if these evils arise from causes beyond their control, which I propose to show is the case, and if the common law is not sufficient to protect the people, then new methods should be adopted which will accomplish that purpose.

After it has been ascertained that a plan can be devised which can be carried out by legislative action, then the question arises whether Congress has the legal power to enforce it. There are a great many practical affairs of life which cannot be controlled by direct legislation. Should it appear that railroad management is one of them, the question of legislative jurisdiction need not be discussed at all.

I shall therefore examine the subject from the commercial and practical standpoint, and this under two heads:

First. Have the railroad companies of this country performed transportation services for the people at reasonable cost?

Second. Have their charges been justly and equitably assessed upon the people?

Judging from some of the bills that are under consideration, it seems to be taken for granted by their authors that the railroad companies have not complied with the first condition, and that they have been guilty of extortion, and that therefore their charges should be limited by law.

The bill introduced by Mr. Peters (H. R. 2119) provides for the establishment of a national board of arbitration (section 6, lines 10 to 13), which board is "to determine the maximum rate to be charged upon freight and passengers by common carriers upon all lines of transportation situated in two or more States and Territories, or a State and Territory."

The bill introduced by Mr. Barksdale (H. R. 3265) also establishes a commission, and in section 5, lines 4 to 6, it is provided that the said board of commissioners shall make a schedule of reasonable maximum rates of charges for the transportation of passengers and freight."

I will first consider whether railroad charges are reasonable. If they are, there is no necessity for the provisions of these bills fixing maximum charges.

The most extravagant statements are made in order to show that extortion is practiced by railroad companies. These statements go before the public without contradiction and are believed. In the official report of Senator Windom, as chairman of the Committee on Transportation to the Seaboard, in order to show the immense power of the railroad companies to exact unjust charges from the people, he estimated that an advance of 5 cents per 100 pounds in the rate of transportation on grain to the seaboard amounted to \$45,000,000 per annum, which sum could be exacted from the people at the pleasure of the "railroad kings." In this estimate he assumed that the entire grain crop of the country, which at that time amounted to some 1,500,000,000 bushels, was carried by the four trunk lines to the seaboard, leaving nothing for home consumption, not even enough to feed the stock of the farmers who raised grain, nor the farmers themselves, nor to supply seed for the coming year. This peculiar statement was very largely circulated among the people throughout the country, and is to-day, no doubt, believed by many.

Later, when it was thought expedient to establish an anti-monopoly league in New York, and it was necessary to show what terrible monopolies these railroads were, a speaker, at the first meeting at which the anti-monopoly league was organized, improved upon the estimates of Senator Windom.

Notwithstanding these extortions by the railroad companies, as estimated by Senator Windom, it was found that the grain crop in 1880 had increased from 1,500,000,000 to 2,400,000,000—a remarkable increase under the alleged extortionate charges of the railroads—and that the 5 cents increase in 1880 amounted, upon the whole grain crop of the United States, which also was supposed to be transported to the seaboard, to \$75,000,000; and the railroads were charged with extorting from the public, on grain alone, \$75,000,000, and the total estimates of the extortions of the railroads, including other freights, was placed at \$900,000,000. This in the face of the recorded facts that the entire income of all the railroads in the country during 1880, over some 94,000 miles of road, from freight transportation charges of every kind and nature, amounted to only about—

The CHAIRMAN. Is that in reference to Judge Black's statement?

Mr. FINK. Yes; to Judge Black's statement.

The CHAIRMAN. I want to mention right here this, which I omitted when Mr. Depeu and Mr. Blanchard were on the same thing, and for the reason that ought probably to restrain me now. I called his attention to that statement made years ago, and he made an explanation to me which showed there had been a total misstatement and misapplication of his remarks.

Mr. FINK. I have his own letter, published in the New York World. I have not got it here. He makes this statement which I quoted. I do not hold Judge Black responsible for these figures. They were given to him just as he was stepping on the rostrum to speak. They were given to him by Mr. Thurber, I believe.

Mr. DUNN. Let me ask you a question in regard to these net earnings. You put it at about 5 per cent. on the stock?

Mr. FINK. On the whole investment. The bonds paid more than the stock.

Mr. DUNN. The gross earnings are 5 per cent.

Mr. FINK. The net earnings on the whole investment—stock and bonds.

Mr. GLASCOCK. And out of that 5 per cent. the interest has to be paid on the bonded debt and dividends to stockholders?

Mr. FINK. Yes. The bonded debt receives a higher proportion than the stockholders—6 or 8 per cent. on the bonds, while the stockholders only receive what is left.

Mr. LONG. The interest is paid in the one case on the funded debt, and no interest is paid at all in the other case.

Mr. FINK. In many instances.

Mr. DUNN. Is the interest on their funded debt estimated as part of their expenses and not taken into consideration in making dividends?

Mr. FINK. I include it here as a profit on the investment. Five per cent. is the total net earnings of the railroads.

Mr. LONG. Not counting sums paid as interest on their funded debt.

Mr. FINK. From that amount they have to pay interest on the funded debt and dividends on the bonded debt.

Mr. DUNN. Two hundred and fifty-five million dollars will be the total amount.

Mr. FINK. Two hundred and fifty-five million dollars are left to pay interest on the bonded debt and stock, if any. That was in 1880. The total earnings from freight were \$500,000,000, and, including the passenger service, only \$650,000,000. Of these gross earnings there were paid by the companies for operating expenses, \$360,000,000—

Mr. WOODWARD. What is the amount of the railroad investment?

Mr. FINK. About \$7,000,000,000.

Mr. DUNN. One of the speakers called it \$3,000,000,000; still another called it \$6,000,000,000.

Mr. FINK. I think it is stated in Poor's Manual to be about \$7,000,000,000.

The CHAIRMAN. Poor's Manual of year before last states the amount to be between five and six billions. The actual investment is probably three or three and a half billions, but the watered stock brings it up to between six and seven billions.

Mr. STEWART. Something is said about watered stock. You have heard about it before. Is there any way by which you can make any estimate as to their real as compared with their reported capital?

Mr. FINK. I will refer to that directly. I expected that question would be asked, and am prepared for it. Of the total earnings in 1880 there were left \$255,000,000 for the payment of interest upon an investment of \$5,000,000,000, or about 5 per cent. on the investment; and this during the most prosperous year in the history of railroad-ing. How the railroad companies could extort \$900,000,000 and only earn about \$250,000,000 I must leave to you to explain. The stockholders received about 3 per cent. on their investment, and the remainder was paid to the bondholders or used to liquidate indebtedness. Now, these estimates, ridiculous as they may appear, were believed, and are believed up to this day by many intelligent people; hence it is not surprising that we find among the bills now before your committee a number providing for the protection of the people against unjust extortion, and providing for the appointment of a commission to fix maximum rates of transportation on the railroads in the United States.

I have above referred to the general results of the operations of the railroads in the United States in the year 1880. Since that time there has been an increase in the railroad mileage of the country, and it may be interesting to refer to the general results obtained in the year 1882, the latest period of which statistics have been collected. I shall state the results only in round numbers, in order that they may be better remembered.

The gross receipts of the railroads in the United States during 1882, from both passenger and freight earnings, were about \$700,000,000. The freight receipts were \$500,000,000. These were the earnings of 112,000 miles of railroad. The net receipts were about \$300,000,000, which went to pay the interest on the bonds and dividends to the stockholders. The \$400,000,000 were expended in the operation of the roads. The stockholders received about \$100,000,000, which is equivalent to about 3 per cent.

on the stock. The bondholders got about \$200,000,000, which is equivalent to about 5 per cent.

The capital invested in these 112,000 miles of railroads is about \$7,000,000,000. The gross earnings for the year were therefore about 10 per cent. on the capital invested, and the net earnings were about $4\frac{1}{2}$ per cent. It is only necessary to state these general facts to show that the people of the United States have received transportation services from these railroad companies at a very low rate, and with little profit to the owners of the roads. There certainly could not have been much extortion practiced. It is true that in single instances there may have been charges that appear large. But this could not have been the case with the great majority of the railroads; otherwise the effect of extortion would appear in the general results which I have just mentioned, which it does not. It cannot be considered an extravagant compensation for the stockholders to receive 3 per cent. on so risky an investment.—

The CHAIRMAN. Where will we find the statement showing that the total investment is as much as \$7,000,000,000?

Mr. FINK. Poor's Manual is my authority for stating that that is the total capitalization.

The CHAIRMAN. Are those published?

Mr. FINK. Yes, sir; they were published for 1882. You ought to have those figures.

Mr. LONG. Have you analyzed that general statement, so that we can determine in any way whether there are some railroads which are making a very large per cent. of interest on their investment, and others that are making a very small per cent.; so that, although the average may show no extortion, still if we could pick out some particular lines those would show a very large tax upon the business of the country? Is there not something of that kind?

Mr. FINK. We know generally that there is not a railroad in the country that pays more than 10 per cent. dividend. We know that there are a great many that pay no dividend.

Mr. LONG. That is a fact, is it, that there are none which pay more?

Mr. FINK. Yes; none pay any more than 10 per cent.

Mr. DUNN. Ten per cent. is the average interest on this \$7,000,000,000 investment?

Mr. FINK. No; not the average; I mean the highest of any one road.

Mr. DUNN. You do not mean to say that the highest net earnings of any railroad is 10 per cent.?

Mr. FINK. I don't remember any that make higher dividends than that.

Mr. DUNN. But the average gross earnings are 10 per cent.?

Mr. FINK. The average gross earnings are 10 per cent. on the total investment; but some roads may earn more than 10 per cent. The average net earnings on the stock are only 3 per cent.

Mr. DUNN. Then there are some roads that earn more than 10 per cent.?

Mr. FINK. There are some that earn as much as 10 per cent. on the stock, but, of course, there cannot be many. For example, if the stockholders only get an average of 3 per cent., and if one-half of the roads pay nothing, the other half only pay 6 per cent. When you want to see whether any particular road is charging extortionate rates and is paying exorbitant dividends, the only way is to take up that particular road by itself and see what it cost and what it earns.

Mr. DUNN. I didn't know but you could tell us, if there was any information, where to get it.

Mr. FINK. I can tell you that none of them get more than 10 per cent. dividend on the stock; but you can see from Poor's Manual what each road earns.

Mr. DAVIS. That 10 per cent. is on the stock, in addition to what is paid on the bonds?

Mr. FINK. Yes; on some roads.

Mr. DUNN. Then that stock may represent the actual capital invested and a great deal not invested?

Mr. FINK. I will refer to this directly.

It may be said that these low average earnings are the effect of the building of unnecessary roads and that the stockholders should not have built them. This may be true so far as the stockholders are concerned. But are there any of the railroads in this country which are unnecessary? Have not the people been immensely benefited by the construction of these roads, if the stockholders have not? Would the people be willing to dispense with any of the railroads now built? If the stockholders have not received the benefits of their investments the people certainly have.

It may also be said that of the \$7,000,000,000 invested in the railroads of this country, as appears from the statistics, there is much fictitious or "watered" stock. The stock liabilities of the railroads in the United States are about \$3,500,000,000 in round numbers. Say that one-half of this stock was "watered" stock. The interest received upon the legitimate stock would even then only amount to 6 per cent., which certainly is not an excessive interest upon so risky an investment as railroads. But there is much misunderstanding in regard to the "watering" of stock. While un-

doubtedly the stock of many roads has been "watered," on the other hand a great deal of stock has been wiped out. During the past eight years more than 20,000 miles of railroad property, costing \$1,400,000,000, have gone into bankruptcy.

The present capitalization of the railroads in the United States amounts to about \$60,000 per mile. I doubt whether it would be possible to reproduce the railroad property of this country as it now stands at that cost which is only about one-half of the average cost of railroads in Europe, where the labor and material used in the construction of railroads is at least 33 per cent. less than in this country. The following table shows the cost per mile of railroads in some of the European countries:

In Great Britain.....	\$200,000
In France	188,000
In Russia	135,000
In Austria	109,000
In Germany.....	105,000
In Italy	100,000
In the United States.....	60,000

Mr. DUNN. Do you mean that as stating the actual cost, Mr. Fink?

Mr. FINK. Yes; I take that to be the exact cost. I believe they do not "water" stock in Europe.

Mr. DUNN. That means everything—rolling-stock, buildings, and everything?

Mr. FINK. Yes.

Mr. LONG. The cost of the right of way is greater there?

Mr. FINK. Yes; but we have to pay nearly \$3,000 a mile duty on steel rails in the United States. Before the present tariff law was passed the duty was \$27 a ton on steel rails, and it takes about 100 tons of rails per mile. That is \$2,700 a mile for duty on steel rails alone.

Mr. DUNN. Do you mean per mile of single-track road?

Mr. FINK. I mean that is paid per mile of track.

Mr. DUNN. The New York Central has four tracks. A mile of that is but one mile, and not four miles?

Mr. FINK. Yes; that is one mile of road, but four miles of track.

Mr. DUNN. Are not a great many of the roads in Europe double track?

Mr. FINK. In Germany they are not; in England they are.

Mr. DAVIS. I do not understand Mr. Fink to say that one mile of four tracks is only called one mile of road.

Mr. FINK. Yes; I do. There are about 30,000 miles of double track, so that instead of 112,000 miles of road there are about 142,000 miles of track; and if you count the double track you see that it brings the cost from \$60,000 per mile of road down to about \$48,000 per mile of track.

Mr. WOODWARD. When you say it costs \$60,000 per mile, is that taken on an average of all the railroads in this country, including the Western and Pacific roads, where there are thousands and thousands of miles laid down upon the prairie, where they have nothing to do but turn up the sod?

Mr. FINK. Yes.

The CHAIRMAN. In determining this 112,000 miles does that include the length of the track where they have double track?

Mr. FINK. Only the single length of the road, without sidings or double track at all. There are about 30,000 miles of single track besides the 112,000 miles of double track and side tracks. So if you express that in single track it would be about 142,000 miles.

Mr. BARKSDALE. What did you say was the additional cost per mile on account of the tariff?

Mr. FINK. If you build a new road it will not now cost as much as formerly, as the tariff has been reduced. Formerly the tariff was \$27 a ton on steel rails. That is as much and more than the rails cost in England and Germany; they can buy their rails for less than that. We had the pleasure of paying that in addition to paying for the rails; hence that is an item making the cost of our railroads unnecessarily great, and still, with all these disadvantages, we build railroads for \$60,000 a mile, while it costs \$100,000 per mile in a country where the material and labor is 33 per cent. less than in this country.

Mr. BARKSDALE. Is not the additional cost of building the roads paid by the public who use the roads?

Mr. FINK. In this country?

Mr. BARKSDALE. Yes, sir.

Mr. FINK. I shall hereafter refer to the fact that railroad tariffs are limited, and we cannot charge what we please; but we charge all we can, and you see the stockholders only get three per cent.; so, if you put taxes and taxes on the roads, it does not come out of the public, but it comes out of the roads.

Mr. BARKSDALE. You do not charge any more on account of the tariff?

Mr. FINK. No, sir; we cannot regard in most cases the cost at all in making our charges. We have to make our charges to suit the commercial interests of the people. They are limited by a great many influences, and we cannot tax at pleasure.

Mr. BARKSDALE. You take that into consideration wherever you can?

Mr. FINK. Wherever we can—legitimately, of course, I mean.

Mr. BARKSDALE. If the building of the roads should cost less by the reduction of the tariff, your charges would not be less; they would still be the same.

Mr. FINK. That might have an influence upon it in some cases, but not upon a large amount of the competitive traffic. Our charges are limited by other considerations than the cost of the road and "watered" stock. If we could always charge enough to pay the interest on the cost of the road, you would never hear of a bankrupt railroad; but it is because our charges are limited and restricted in many ways that we have bankrupt roads.

Mr. GLASCOCK. Do not they charge up what they lose? I understood Mr. DePew to make the claim that they had to raise \$10,000,000, and in order to do that they had to charge so much more on the way freight than on the through freight—charging the extra on the way freight to make up the loss on the through freight.

Mr. FINK. They may have to make larger profits on the way freight than on the through freight, but they don't carry any freight at a loss if they can help it.

The CHAIRMAN. Have you any means of telling what proportion of the 112,000 miles of road is narrow gauge and what proportion is standard gauge?

Mr. FINK. Perhaps there are two or three thousand miles of narrow gauge; I cannot tell exactly, however.

Mr. WOODWARD. And a large proportion of it is more expensive than the standard gauge. That narrow gauge is mostly used in mountainous districts, is it not?

Mr. FINK. There is not much difference in the cost of the roads of the two gauges. When I speak of the capitalization of the railroads, I do not mean the cost; we cannot tell what the cost of the railroad system has been. A great deal of stock has been wiped out and a great deal has been "watered." We have only to do with the fact that the capitalization of the railroads—that the bonded debt and stock of the railroads—amount to about \$7,000,000,000, or about \$60,000 per mile, and it is only by analyzing the cost of the roads that we can form an approximate idea whether \$60,000 a mile is too much or whether you can replace the railroad system of this country for that sum or for less. This is merely an estimate.

Mr. STEWART. You say you could not replace it for that now—\$60,000 per mile?

Mr. FINK. No, sir; I do not think you can. There might be a difference of opinion, and I do not want to press my opinion upon others. I only want to give my reasons for my opinion.

Mr. STEWART. Do I understand you to say that under the most favorable circumstances it is supposed to be \$60,000 per mile?

Mr. FINK. I don't think you could reproduce the roads for less. I think the estimate is very low. The Hoosac Tunnel cost \$3,000,000 a mile, I think. Am I right in that, Mr. Long?

Mr. LONG. Yes, sir.

Mr. FINK. In New York City it cost \$4,000,000 simply to build four miles of road in the city, and, perhaps, \$2,000,000 to build the depot.

A moment's reflection will show that \$60,000 per mile for building the railroads in the United States is not extravagant. There are a great many items that go to swell the cost of railroads which are not usually considered. It is generally supposed that the mere grading of a road and putting down the rails constitutes a finished road. The cost of the cheapest roads, taking an average price of iron, neither the lowest nor the highest, would, perhaps, be about \$15,000 per mile under the most favorable circumstances. But there are many miles of road the grading of which alone cost \$300,000 per mile; and, if you take the bridges and tunnels, many miles of road have cost over a million dollars. Take, for example, the cost of the road across the Ohio River at Louisville, one mile long, was \$2,000,000. The cost of one mile of road crossing the Mississippi River at Saint Louis was \$14,000,000. The Hoosac Tunnel cost \$3,000,000 per mile. These facts must be taken into consideration in order to arrive at the average cost per mile of the railroads of the United States. In addition to the above take the cost of the rolling stock, which averages \$6,000 per mile on the roads in the United States. The water stations, machine shops, depot buildings, and depot grounds are additional items of expense. Millions of dollars are expended in a city like New York for terminal facilities.

Then, again, the interest to be paid on the capital invested during the period of the construction of roads before any money is earned alone amounts to from four to eight thousand dollars per mile. Another legitimate item in the cost of railroads is the discount upon the bonds. Bonds have been negotiated in this country at from 50 per cent. to their par value, according to the character of the enterprise and the probable risks assumed. It must be supposed that no one was willing to furnish

money on any better terms, although the people of this country, including those who now complain of the railroads, had the opportunity to do so.

For the roads whose cash cost is \$40,000 per mile and \$20,000 per mile is raised in bonds, and the bonds sold at a discount of 20 per cent., the cost per mile for discount alone is \$5,000.

When all these perfectly legitimate expenses are taken into consideration, the conclusion must be reached that a capitalization of \$60,000 per mile is not excessive, and 3 per cent. interest on the capital invested by the stockholders who assume the whole risk of these enterprises by no means constitutes an excessive return.

I only mention these facts to show that the popular view that railroad companies are great money-making monopolies is not based upon facts, and that legislation to restrict their alleged extortionate practices is entirely unnecessary.

There is another view that may be taken of this subject. Let us examine into the cost of transporting some of the articles of freight over these railroads. What does it cost to get a barrel of flour from Chicago to New York? During the summer the railroads charge 50 cents for carrying 200 pounds of flour 1,000 miles, but now charge 30 cents. Supposing a man eats 1 pound of flour a day, he then pays on an average for 365 pounds of flour, say, about \$1. If he also consumes a pound of meat per day, brought from Chicago to New York, at an average cost of about 32½ cents per 100 pounds, amounting to \$1.20 a year, he pays during a year \$2.20, which is about equal to one and a half day's wages of a common laborer and less than a day's wages of a skilled laborer, for the services rendered him by the railroads. Yet the workingmen are told that these railroad monopolies are extorting the very life out of them, when the fact is that they have aided them immensely in reducing the cost of living.

If you will go through the whole list of articles of consumption you will find that the charge for railroad transportation is very small compared with the cost of producing the articles, and much smaller than the profits which are generally charged by the middlemen, the merchants, who are constantly complaining of the railroads. Take, for example, a suit of clothes, shipped from New York to Chicago, weighing about 10 pounds. At the present rates it is transported to Chicago for 7½ cents. The suit may cost from \$20 to \$50, and the cost of transportation is almost inappreciable. Or, take a calico dress, which is transported from New York to Chicago, a thousand miles, for about three-quarters of a cent a pound, or 2½ cents for the dress. And yet we have complaints of dry-goods merchants calling upon the railroad commissioners of New York to reduce the cost of carrying these articles. Take a pound of coffee, which is carried from New York to Chicago for one-third of a cent a pound; and sugar for one-fourth of a cent a pound; the price being 30 cents per pound for coffee, and for sugar 11 cents.

These are not extravagant charges and nobody will object to them, certainly not the consumer, to whom the cost of transportation is almost inappreciable; and if the retail merchant should attempt to collect the cost of transportation separately from the other charges there is no money in the United States of denomination small enough to represent the cost of transportation on a pound of coffee or a pound of sugar. I am sure you have no complaints before this committee from consumers, from the people at large. The complaints, if any, come from the middlemen, who are generally the only beneficiaries of reductions in transportation rates. They put the larger profits, made possible by lower rates of transportation, in their pockets; hence, their constant efforts to prove that the railroad companies are extortioners. It is to their interest to do so. But this class of middlemen, in their opposition to the railroads, do not represent the people, and your committee must not put much weight upon what they say.

The CHAIRMAN. Mr. Fink, I have a letter here I received this morning; I would like to read it because of your connection with the railroads, and let you make any explanation you please in the course of your argument. The letter is from the office of W. L. & C. R. Cook, No. 70 Exchange Place, Baltimore:

BALTIMORE, January 25, 1884.

To Chairman Committee on Commerce:

My attention was called to the subject of inter-State commerce by rail, by an article in the New York Herald of this date. Some four years since a firm of which I was then a member contracted with the Philadelphia, Wilmington and Baltimore Railroad to bring sugars from New York to Baltimore at the rate of 12 cents per 100 pounds, the contracting agent guaranteeing it to be the lowest rate between those two points taken from any one in Baltimore, we being amongst the largest dealers in Baltimore. Subsequently that firm discovered that they (the Philadelphia, Wilmington and Baltimore Railroad) had contracted with other concerns at 10 cents, all other circumstances being equal. We were unable to effect a settlement, although the writer had the agent's promise, and suit was brought, which suit is still pending. On account of this action the Philadelphia, Wilmington and Baltimore Railroad arbitrarily refused our freight under schedule rates, viz, 20 cents per 100 pounds,

and adopted the same actions towards my present firm, although my present firm, as such, has had no difficulty whatever with that corporation. This discriminating rate would effectually crush our business (as that difference fully covers our margin of profit, and all goods we handle come from New York or Philadelphia) were it not for the accidental and fortunate circumstance that we have water communication.

Is not the principle wrong which allows a corporation holding its privileges from the citizens of a State to discriminate ruinously between those citizens? Is it not wrong in principle for freight agents generally over the country to hold the business interests of the citizens of those towns, or that country through which their roads pass, at the caprice of their favoritism, their enmity, or their interests? If this is law or equity, what prevents these corporations, so desiring, from absorbing the business of any section without a competing road, or by collusion, if such exists, by making low contract rates with those in their interest, and an excluding schedule one for all others? We cannot resort to law, but what individual can successfully fight this power? Nothing short of the power of Congress can help us. It seems a terrible tyranny we are laboring under. We would be compelled to close our business at once, should accident to canal or other cause prevent the Ericsson line of boats from transporting our goods. As it is, we are suffering loss, being compelled to pay the canal line more freight than the railroad contracts with our competitors. I hold myself in readiness to answer any other questions should you desire it.

Very respectfully,

W. L. COOK.

The CHAIRMAN. This comes directly from Baltimore, and refers to one of the great trunk lines, on which we are told equitable rates are preserved by the pool.

Mr. FINK. Yes, sir; I have only referred to the absolute rates, not the relative rates. There may be unjust discrimination in rates, although the rates are reasonable. If the facts are as he charges, I think he is wrongfully treated, and he ought to have his remedy somewhere. I think the common law is sufficient to remedy his grievance. I do not approve of the action of the railroad in this case; but still I would not like to express an opinion until I had heard the other side. There are always two sides to a question. I shall refer to unjust discrimination hereafter. I condemn all such action as he complains of. I am entirely on his side, and would like to see him get his remedy.

Mr. DUNN. Do you intend the transportation rates that are given by you to be given as the general average charge all over the country?

Mr. FINK. These are the rates principally between the seaboard and the Mississippi River.

Mr. DUNN. For instance, flour being carried from Saint Louis to New York for 20 cents a barrel.

Mr. FINK. At present it would be more. It is now 35 cents a hundred.

Mr. DUNN. A large mass of the consumers of the country—our rural population—are charged 70 cents per barrel for transporting it 44 miles.

Mr. FINK. If they add that 70 cents to the 35 cents that is charged for transportation from Saint Louis, they will find the total cost of transportation to the market is not very great.

Mr. DUNN. Those are Western discriminations.

Mr. FINK. Yes, sir; I wish at present to confine my argument to showing that the charges are not extravagant nor unreasonable.

Mr. LONG. Are you not taking exceptional rates rather than the general rates?

Mr. FINK. The bulk of the products of this country are grain, flour, and provisions. The larger part of the business of the railroads this side of the Mississippi River is in carrying these articles.

Mr. DUNN. You are dealing with the through rates and not with the great mass of local rates.

Mr. FINK. I do not deal with the local rates at present, I deal generally with through rates which affect the inter-State traffic.

Mr. DUNN. A very large part of the inter-State traffic is considered local—what the roads would treat as local traffic?

Mr. FINK. Yes; but the local business of the railroads is mostly not inter-State traffic. You cannot, however, draw a line between inter-State and local tariffs. That is one of the difficulties in the way of legislating upon the subject by Congress.

Mr. DAVIS. You now refer to rates between Chicago and New York. Do you, in your argument, refer to rates west of Chicago?

Mr. FINK. No; I have not referred to them as yet. I refer to these rates because the bulk of the inter-State traffic is carried over the railroads east of Chicago. Of course it comes to Chicago at somewhat higher rates than it comes from Chicago to the seaboard. For example, the rate on grain between Kansas City and Chicago is about as high as it is from Chicago to New York. It is about 25 cents from Kansas City to Chicago now, and our rate from Chicago to New York is 30 cents per hundred.

The rates are higher as you go farther west; but, nevertheless, the people west of Chicago get the benefit of the low rates east of Chicago, although they may have to pay something higher for bringing the articles to Chicago. You have to take the average rate from the point from which the traffic starts to the point where it lands.

I might go through the whole list of articles of consumption and prove the fact that Congress ought not to allow itself to be made the tool of this class of people by legislating upon the rates of transportation as is proposed in some of the bills before your committee. These transportation rates cannot be determined by Congress nor by commissions appointed by Congress. They cannot even be arbitrarily determined by the railroad companies who own the property. They are regulated by so many conditions and influences that there is no danger that the railroads can exact unreasonable compensation.

There are regulators of transportation charges which exercise a much more powerful influence than Congress could possibly exercise. I refer to the competition of the waterways and the competition between the various railroads themselves, and the competition between the products in the markets of the world. These are the legitimate and proper regulators of railroad charges. They constantly exercise their influences and are self-regulating.

I will first refer in a general way to the influence exercised by the competition with transportation lines via water routes.

The cost of transportation upon the water routes being cheaper, the railroads have to carry freights as cheaply, or nearly as cheaply. They can only increase their charges over the charges made by water routes to the extent that they offer additional advantages; while somewhat higher rates can be charged by the railroads, the basis of their charges are the charges made by the water lines. If they charge more than a certain amount above the water rates, the business would all go by water. Not only is this the case where railroads come in direct competition with the water routes, but the effect of these water routes upon the rail transportation rates is felt throughout almost the whole country. This is the result of the great competition between the railroad companies themselves. As to the Erie Canal and lakes, the railroads that directly compete with those routes between Chicago and New York must conform to the low water rates; but it is also necessary that, say, for example, from Indianapolis, which has no water connection with New York, the rates should be made upon the same basis as the Chicago rates; that is, the same per ton per mile, or nearly so. That rule is almost a fixed rule now, adopted by the railroad companies, that whenever the Chicago rates are lowered the rates throughout the whole territory east of Saint Louis, Louisville, Cincinnati, Peoria, Columbus, &c., are lowered proportionately. There are so many roads that run from those points direct to the East, under independent management—they want a share in the business of the country. If they were to try to exact proportionately higher rates, say from Indianapolis or Saint Louis, than from Chicago, there would be enough margin left between the Saint Louis and Indianapolis and the Chicago rates to New York that freight could be sent from Indianapolis to Chicago, and then by railroad or canal from Chicago to New York. In order to prevent this the railroads that run direct from Indianapolis, Saint Louis, &c., to the East, make the rates so low that the business must go over their roads and cannot go to Chicago.

While the water routes only exist between Chicago and New York, the effect upon transportation rates is felt all over the country, by reason of the competition between the railroads. No combination of the railroads can suppress this competition. It could only be done if the railroads were all owned by one party, and were operated in one interest. But as it is, they have all separate interests, and each one guarding its own interest, keeps up this competition; and even in agreeing between themselves upon rates, these rates are fixed by competition. This, unfortunately, is not understood by the public. It is generally believed that when competing railroads agree upon uniform rates that this excludes competition. This is not the fact. The effect of water competition is not only felt in the territory east of the Mississippi and Ohio Rivers, but is felt south of the Ohio River. For example: The low rates from Louisville, under the influence of the Chicago low rate, is felt in Memphis, Nashville, and further south. Freight from Memphis is shipped to Louisville and gets a low rate from there; and the people of Nashville and such places get as much advantage from the low rates as if really located on a water course: so that the influence of the water transportation is felt almost throughout the whole country. That is the influence of the Erie Canal. To the south there is the water route from New York to New Orleans via ocean, and from New Orleans freight is carried to Memphis and Saint Louis and the West via the Mississippi. In order to meet these low rates, the east and west roads from Louisville and Memphis, or from Memphis to Norfolk east, have to conform again to the low rates made by the Atlantic Ocean and the Mississippi River. In this way the water courses are really regulating the railroad transportation rates throughout, you may say, the whole country. Of course the low rates from here to the Mississippi River are enjoyed by the people west of that river. Rates

generally are higher west of that river, but the people west of the river get the benefit of the low rates east. In many other ways the water routes help. The Ohio River, the Tennessee River, and the Cumberland River, affect the railroad rates at the interior. There is plenty of competition that regulates the rates and keeps them at an exceedingly low figure. Not only the water ways (as I have explained) control the rates almost completely—limiting them, at any rate, within very narrow limits—but the competition of the markets for the products that are to be carried is another great factor in fixing railroad transportation rates. The price of carrying grain, for example, is not fixed by the railroad companies, but is fixed in the markets of the world. That price is generally regulated now by the Liverpool market, and if railroads want to carry any grain they have to carry it at a price that will enable the producers to compete in the Liverpool market with the markets of the world.

The East India wheat and Black Sea wheat compete with American grain in the Liverpool market. So widespread is the influence of competition that the charges for transportation in East India have even become factors in making railroad rates from Chicago to New York. There is no danger whatsoever of any excessive charge being made.

It can be shown that the transportation charges on almost every article of consumption are limited by commercial conditions. Many cheap articles, such as coal and iron and lumber, have to be transported at a very low rate if they are to be transported at all. The tariff is fixed by the market price of the products in the different sections of the country. The railroad transportation charges can never be more than the difference between the market value of the articles in different markets which determine for the railroad companies their charges in a great measure; and therefore there is no necessity for any arbitrary legislation on the subject.

I am sure that if your committee were acquainted with the details of making railroad tariffs you would not spend any time in attempting to prevent extortion. Of course I only speak now of the bulk of the interstate traffic. There may be individual cases where charges are high, perhaps unnecessarily high, but these isolated cases can easily be reached under the common law, without any additional legislation on the part of Congress.

A comparison might be made to advantage between transportation charges in other countries and those in the United States. In France, where the Government regulates the railroads (or tries to regulate them), the average cost per mile of moving a ton of freight is about 1.6 cents; in Belgium, 1.5 cents; while in the State of New York the charge is only .9 cent per ton per mile, on the average.

Mr. LONG. How much?

Mr. FINK. Nine-tenths of a cent; and in France it is $1\frac{1}{2}$ cents.

Mr. DUNN. What is the average in the United States?

Mr. FINK. We haven't got the average in the United States; but I think the bulk of the traffic is carried at just about the same rate as the New York traffic, perhaps a little higher.

Mr. DUNN. Do you know what is the average of the great trunk lines?

Mr. FINK. I think it is about from 0.7 to 0.8 per ton per mile. I do not think the average of all the roads in the United States would be more than 1 cent per ton per mile. The water competition everywhere restricts the railroad charges.

The New York Central and Erie railroads charge on an average .7 per ton per mile. With the cheaper labor in Europe and the cheaper cost of material it would be more reasonable to expect to find the cost of transportation to be higher in this country than in Europe.

I repeat that there is no legislation needed, either by Congress or by the States, to protect the American people from the extortions of railroad companies. For this reason bills Nos. 2119 and 3265, as far as they provide for the establishment of railroad tariffs, should not be enacted into laws.

There are many other weighty reasons why it is impossible for Congress to absolutely control the railroad tariffs of the country, which, however, I do not think it necessary now to consider, as those already mentioned should be sufficient to prevent any legislation on the subject.

I propose now to consider the second demand which is made upon the railroad companies as common carriers, viz, that the transportation charges shall be just and equitable, which means that they shall be assessed upon the people as nearly as practicable in accordance with the value of the service rendered.

This condition, I am free to say, is not always complied with, and many of the complaints made by the people on this account are well founded; but, at the same time, I propose to make clear the fact that this is not always the fault of the railroads, but is more often due to the nature of the transportation business, and to the peculiar conditions under which it has to be conducted, and over which the railroad companies, each acting for itself, have no control.

Several bills are under your consideration, having for their object the prevention of unjust discrimination. But the mere declaration that there shall be no unjust dis-

crimination is not sufficient to accomplish that purpose. We all agree as to the correctness of the principle; the question is, how can this principle be carried into practical effect?

The first difficulty is, to define what constitutes unjust discrimination. It would be impossible to lay down a general law by which this could be determined. Each particular case must be judged upon its own merits. What may be unjust discrimination in one case would be perfectly just and legitimate in another. It is for this reason that it is impossible to control this matter by general legislation. Commercial transactions are not guided by any one abstract principle. The furtherance of the interests of all those interested in any commercial transaction is the only principle to guide the various parties concerned. Any act is just and proper which advances the interests of all and does no injury to any one. Commercial questions are questions of interest and of expediency, not of abstract principles. As the conditions vary in each particular case, the principles must be adopted which bring about the desired result. Hence the guidance of commercial transactions (and the establishment of railroad tariffs and transportation charges is purely of a commercial nature) is entirely beyond the reach of general legislation. It is for this reason that so far all special legislation on the subject of railroad tariffs has entirely failed and ever must fail. It is not a subject that permits of direct legislative control, any more than you can control by a general law the treatment of diseases to which the human body is subject. The treatment must be adapted to each individual case, according to the peculiar circumstances, conditions, and nature of the case.

The truth of these statements can only be appreciated by those who have to deal with the thousands of cases which arise in the daily practice of railroad management.

I will illustrate the correctness of these remarks by referring to a few instances in which it is attempted in the bills before your committee to define unjust discrimination. In the Reagan bill, which I will hereafter mention as a representative of all containing similar provisions, railroads are required to carry freight of the same class and quantity for the same charge.

This principle is perfectly just, and should be applied as a general rule; but there are many cases in which its application would do much mischief and result directly against the best interests of the people.

Mr. DAVIS. I think there is no question as to quantity. The question of quantity is not mentioned in the bill.

Mr. FINK. No. But there are some principles laid down which say what shall constitute unjust discrimination. The quantities or the rates are not mentioned. But it says that certain things shall be considered as unjust discrimination. I merely want to show that you cannot pass a general law determining what is unjust discrimination.

Mr. DAVIS. I think Mr. Reagan's bill does refer to quantity.

Mr. FINK. I do not say anything about quantity. I now simply speak of unjust discrimination.

Mr. DAVIS. I thought you did.

Mr. FINK. There are some of the provisions of the Reagan bill that I want to refer to very briefly. I do not want to go into details and worry you with them. I will only illustrate a few general principles.

I will explain one case, which will illustrate thousands of others that occur in the daily practice of railroad management.

Some time ago I received a communication from a firm in New York, largely engaged in the stove and cooperage business, representing that they are making efforts to extend their business to Europe, and to place these products in the English markets in competition with those now brought to England from Norway. This firm applies to the railroad companies for lower transportation rates than are at present charged upon those articles when carried to New York for domestic consumption. The present rates to New York are perfectly satisfactory to them, and to the trade generally, as they ought to be, being but six-tenths of a cent per ton per mile—not much more than the actual cash cost of the service—but it is alleged that without further reduction it would be impossible to compete in the English market with the Norwegian products.

In order to encourage industry and commerce, and enable the people of America to enter into competition in foreign markets, the railroad companies might be perfectly willing to carry such freight destined for export at still lower rates, or even at the net cost, without profit. They frequently do so to meet home competition in distant markets, or to aid in the development of the country. But it would be impossible for the railroad companies to carry the whole of their business at such low rates, or at the mere cash cost, leaving nothing for profit or interest on capital invested. Under the "Reagan bill," which Congress is called upon to make the law of the land, the railroad companies are to be prohibited from exercising any discretion in cases of this kind; they are to charge as much for the export as for the domestic business—for like service the same rates—thereby prohibiting the railroads from giving to the commerce

of this country that aid which otherwise they would be able to offer, and thus preventing the building up of new industries that might result to the great advantage of the people of the country.

Now it is true that it costs just as much to transport these articles from Chicago to New York whether intended for domestic use or for export. It is exactly the same service, and hence, if the "Reagan bill" becomes a law, the application of the firm I have alluded to for aid in building up an export trade must be refused. I know that the author of the "Reagan bill" did not intend that this measure should have that effect; but he is not acquainted with the practical operation of railroads, with the questions that come up before railroad managers every day, which have to be dealt with upon commercial principles, and he therefore condemns as unjust discriminations acts that are justified by every consideration of public interest—

The CHAIRMAN. Is not the object of that competition on the longer haul simply to get freight that does not belong to them—each road striving to get freight that does not legitimately belong to it?

Mr. FINK. The roads think everything belongs to them that they can get hold of.

The CHAIRMAN. Is it not the striving of the railroads to get freight that does not belong to them that causes railroad wars?

Mr. FINK. They think it belongs to them as long as they can get any profit out of it, be the profit never so small and even less that they get out of their other business. When they can reach a distant point and get any profit out of the business they want it. If you prohibit that it will simply restrict competition. And this is certainly not the object of your bill?

Mr. DUNN. Do you agree with what has been said by Mr. Depew and others about the evils of railroad wars?

Mr. FINK. Yes; and I wish to refer to that myself hereafter.

Mr. DUNN. Is it not a fact that the railroads do make their rates on local freight higher to non-competing points in order to get compensation for their low through rates; and does not that necessarily lead to railroad wars and increase the cost of railroads?

Mr. FINK. No. On the contrary, we establish tariffs all over the country for long distances which give us less remuneration than for short distances. Now, those tariffs are perfectly proper as between the commercial communities and the railroads as long as they reimburse the railroads for the expense of doing the work. We go to Memphis and get business there in competition with water routes that may pay us less per ton per mile than we get from Louisville, which is a point this side of Memphis, and we still make some profit on the Memphis business. As long as we can make any profit at all, it is proper for us to meet the competition of the water routes from Memphis. Those rates are agreed upon by the interested parties, and should be alike to all parties. I will explain this hereafter more particularly.

The CHAIRMAN. Is it not true that when the railroads reach out beyond their legitimate business and try to embrace business that does not belong to them and does not pay, that it is generally done to break down rival lines of railroads or steamboats, and leads to railroad wars?

Mr. FINK. No; I think it is perfectly legitimate. They often agree upon these rates. For example, there is an agreement between the southern roads and the ocean steamboat lines to New Orleans. They have agreed upon certain rates to New Orleans. It is not a war of rates; it is a legitimate transaction. The railroads carry the business between New York and New Orleans for less profit than they do other business.

The CHAIRMAN. Is it not your observation that that is frequently done for the purpose of breaking down the rates of other lines?

Mr. FINK. It is frequently done, and if only for that purpose, and the freight is carried for less than cost, it should be prevented.

Mr. DUNN. Is it not also true that in order to enable roads to reach those distant points they do put up, for instance, the rates to another point to a higher rate than they would otherwise charge?

Mr. FINK. No; I think the contrary is the fact. If they make low rates to very distant points they generally have to scale their interior rates some.

Mr. DUNN. In other words, do not they tax the non-competing points to make up their losses to the competing point? That is the general opinion.

Mr. FINK. That is the general opinion, but it is not correct. The railroads have to be satisfied with less profit on the competitive business, but they do not or ought not to carry it at a loss. In order to explain this I will state that the interest on the investment forms about 40 per cent. of the railroad charges on the railroads in the United States. Sixty per cent. of what the railroads earn is paid out by them for doing the work. Now in case of competitive traffic they may merely charge for doing the work, or they may get 5 per cent. profit, or 10 per cent., or 40 per cent., and they may charge more than 40 per cent. profit on some traffic in order to make the average profit about 40 per cent., which is necessary to pay the 3 per cent. on their in-

vestment. It is certainly better that they should do the work for the small profit than not to do it at all, because it helps to reduce the charges which they otherwise would have to make on local traffic in order to pay interest on the investment from the remainder of the business they do.

The CHAIRMAN. That places it squarely upon the basis that these corporations, charged with the public interest, tax the people of the country unequally.

Mr. FINK. They tax them unequally, but the tax can be unequal and yet perfectly just.

The CHAIRMAN. And yet the rights of all and the interest of all the people in these things are equal.

Mr. FINK. I beg your pardon. They tax the people according to the value of the services they render to them; and that, I believe, is a correct principle. The service I render to the shipper at Memphis, who has always had cheap rates by river, is certainly less valuable to him than the service I render to the man who lives back in the interior of the country who has never had any railroad or water facilities whatever. I must do business with the man that lives on a river for less, because he can get the work done by others for less; but when I come to deal with the man in the interior, who never had any railroad facilities, and who never lived on the river course, and has had to pay for wagoning 12, 15, or 20 cents per ton per mile, if I make my charges to him 2, 3, or 4 cents per ton per mile, I greatly benefit him, while I do him no injury by working for the man at Memphis for half a cent or a cent a ton a mile. I do not think there is any unjust discrimination in that. The discrimination is made by nature and the circumstances of the case, and is not made by the railroads. They do not increase the discrimination that exists; but they diminish it is a great measure.

The CHAIRMAN. Is it not possible for the railroads to overcome and remove those discriminations of the nature which you have referred to?

Mr. FINK. They do. They have done it immensely. You may say they have almost put the people on the same footing all over the country. Transportation charges have been reduced to almost nothing. The people hardly feel them. That is the very thing the railroads have done, and for that they should deserve the gratitude of the whole country. They have reduced these discriminations which nature has made. Where a man paid 12, 15, or 20 cents per ton per mile, we carry for him for one and a half or 2 cents, and perhaps for less. The railroad transportation taxes are assessed according to the value of the service rendered; a great deal of the service we render for nothing or a small profit, simply to build up trade; and then we make a larger profit on other business, which is more valuable, to parties for which we perform the service.

The CHAIRMAN. I do not like to interrupt you, but I would like to ask another question. If you carry freights reasonably, if your freight rates are reasonable from Cincinnati to New York, of which you speak—if they are reasonable from there, can they be reasonable when you carry freight from Memphis or Louisville to New York at the same price?

Mr. FINK. I want to explain why they are reasonable. From Memphis, where you meet steamboat competition, a charge may be half a cent per ton per mile. From Louisville, where competition is not so strong, the rate may be a cent a ton per mile. Do you think this is unjust? Why is it unjust? The Memphis man has always had that cheap transportation. We do not give him any cheaper rates than he has had, but we have to conform to the prices that are made by the steamboats. The man who lives this side of Memphis pays more than the Memphis man; he has always paid more. That is not unjust. We have built the railroads, and they cannot exist except we do charge more, because railroad transportation costs more than transportation by water. Everything is right and proper which sustains the railroads—which makes it possible for them to exist—and does no injustice to any one.

The CHAIRMAN. Is it true that your charge is reasonable to Cincinnati when you charge a less rate to a farther point? Why is it not unreasonable?

Mr. FINK. I think it may be perfectly reasonable. That depends upon the circumstances of the case.

Mr. DUNN. That involves the necessity of the people from Cincinnati to the sea having to pay a portion of the transportation charge from Memphis to New York.

Mr. FINK. Not at all. We only get a smaller profit on Memphis business than on Cincinnati business. It would be foolish for us to carry business at a loss. The Memphis business must pay us some profit or we would not do it.

The CHAIRMAN. Your distinction is that you get a small profit from Memphis and a larger one from other points?

Mr. FINK. Yes, sir.

The CHAIRMAN. That it is the right of the railroads to levy a higher tax on some than on others?

Mr. FINK. Yes, if that tax is reasonable in itself. If I do not charge the man in the interior any more than a reasonable profit, it doesn't hurt him at all if I charge a less profit to another man.

Mr. LONG. Is this the fact: That it is not a railroad which charges higher that determines the rate, and that the railroad is not responsible for it?

Mr. FINK. The conditions and circumstances of the case determine it.

Mr. LONG. The natural situation?

Mr. FINK. Yes; we merely adapt our rates to the circumstances that have always existed, and the only thing we do is to improve upon them, and reduce these natural discriminations.

The CHAIRMAN. The reason I am trying to fix your attention upon it is that, if I understand the history of the railroads of this country, they have been reaching out for business that does not belong to them, and that brings on wars of rates and calamities of which the country complains.

Mr. FINK. It is when they do it improperly; but there is a proper way of doing it, which I shall refer to hereafter.

Mr. STEWART. I see the chairman makes a point of the railroads reaching out for business that does not belong to them; is it not proper for any road to reach out for any business that it can get?

Mr. FINK. All business belongs to the railroads that they can get at some profit.

Mr. STEWART. That is, if it warrants it; if the business sought after is profitable.

Mr. FINK. If it pays you a little, take the little rather than take nothing; that is the principle that is recognized in all commercial transactions; every merchant that sells goods, sells calicoes or other cheap goods at a low profit, or perhaps even at less than he paid for them, and sells silks at a larger profit, to make up for the loss on the cheaper goods.

The CHAIRMAN. That is a business we cannot restrict; that is private and this is public.

Mr. FINK. That is the difficulty of legislating on the subject; you cannot manage the railroad transportation business upon any different principles than you would manage any other commercial business.

The CHAIRMAN. No doubt that is your judgment, but in England, France, and Germany, and all the other European countries, and in this country, the opinion is that it is different—that the railroad business is public and that private business is altogether different from the railroads in its management. A thoroughly private business is owned and controlled by private persons; but you own the railroads—individuals own it—but it is engaged in a public employment; that is, an employment in which nobody else is engaged. You have therefore a monopoly. There is no power to regulate it except the power of legislation, which cannot be extended to private business.

Mr. FINK. I cannot agree with you in this, that the railroads have a monopoly; they are, of course, to conform to the common law. The railroads were created for the public interest, but were built by private individuals; they are operated by private individuals, and must be operated in accordance with the laws that regulate all common carriers. The principle that I have advocated, that the railroads should be managed on commercial principles, is that principle which works in the interest of the public, and it is for that reason that I advocate it; any other principle that you may adopt, any arbitrary regulation of rates that does not recognize these commercial principles, is contrary to the interests of the people, and as you are to guard the interests of the public—and this is your main object, and properly so—then you must come to the views that I have expressed, and manage these railroads on correct commercial principles.

Mr. DUNN. Is it your opinion that the railroads are private property, and not operated in the public interest?

Mr. FINK. They ought to be operated in the public interest, and they are operated in the public interest; and those principles I advocate are in the public interest, and no other principles would be in the public interest.

The CHAIRMAN. If the Government did not extend its franchise and give it the right of eminent domain a railroad could not be built?

Mr. FINK. No. There would be no railroads, and there would be no bankrupt railroads.

Mr. BARKSDALE. The cost of shipping a bale of cotton from Memphis to New Orleans, a distance of 400 miles, is \$1 a bale. The cost from Winona, Miss., a distance of 275 miles, is \$3.25. Now, I ask you if there is any just rule of transportation which would justify a discrimination like that?

Mr. FINK. That would depend a great deal upon the circumstances of the case. I think I can state the existence of certain conditions where it would be justified; and again there might be circumstances under which it would not be right.

Mr. BARKSDALE. What would be the condition?

Mr. FINK. Suppose, for example, you had built a road from Winona to New Orleans. Before that road was built what did it cost you to carry a bale of cotton to New Orleans? After you have put your money into this road have you not a right to charge at least a reasonable amount to reimburse you for the cost of carrying this

bale, including the investment in that road? Suppose it cost you \$3.25 to carry that bale of cotton from Winona to New Orleans, haven't you a right to charge that? Would you be willing to do the work for less than cost? Now, if it cost \$3.25, including interest on investment, that would be one of the conditions under which a charge of \$3.25 would be perfectly justified. I do not, however, know the circumstances in the case you mention, and I would not like to express an opinion unless I knew them.

Mr. BARKSDALE. There are equal railroad facilities between the two points. What I ask is this: If the railroad can afford to transport cotton from Memphis to New Orleans for \$1 a bale, the distance being 400 miles between those two points, by what rule can it charge \$3.25 a bale for the transportation of cotton from Winona to New Orleans, a distance of 100 miles less, the facilities being precisely the same?

Mr. FINK. That I will try to explain to you.

Mr. TURNER. On the same rail route?

Mr. BARKSDALE. Yes; on the same rail route.

Mr. FINK. Let it be the same. You know the rate between Memphis and New Orleans on a bale of cotton is fixed by the steamboats. They take it for 75 cents and sometimes 50 cents. The question for the railroad that want to carry that cotton is to decide whether by taking it for \$1 a bale, which is the highest the road can get, they can make a little profit out of it. If it costs that railroad 75 cents and it gets a dollar, that is an additional 25 cents profit per bale to the road. The road-bed is there and the cars are there, and everything is ready to transport that bale of cotton to New Orleans. No new investment to do this work has to be made. Now, if the road could not get more than a dollar per bale from Winona to New Orleans, it would not pay sufficient interest on the investment, and perhaps not enough to pay the general expenses of the road, and in that case the road could not be operated at all. The road charges very little profit on the New Orleans cotton from Memphis. They charge nothing, perhaps, for the use or the investment in the road; but on the bale of cotton they carry from Winona to New Orleans they must charge for the use of the road, for the investment made in the road, because the road was built for the Winona, not for the Memphis, people. The latter could get along without the road. I cannot determine whether or not the charge of \$3.25 from Winona to New Orleans is justified; but the road is certainly justified in charging a great deal more than they charge on cotton from Memphis to New Orleans. You would perhaps be perfectly satisfied with the \$3.25 charge if that road did not carry any cotton from Memphis to New Orleans; but what difference does this make to you whether they carry it or not? If they did not carry it the river would carry it at that rate, and you would be no better off. You also must not forget that the cotton shipped from Memphis does not grow in the streets of Memphis; it has to be carried there, and it may cost two or three dollars to carry it from Winona or some other place to Memphis, so that the total cost of getting the cotton into New Orleans from other plantations may be even more than you have to pay.

Mr. STEWART. Suppose this principle applied to the case stated by the gentleman from Mississippi, and the railroad was compelled to pro rate—I use that term because it is the common term—that is to say, they would not charge any more relatively on this Winona business to New Orleans, taking the rate from Memphis as a basis. Now, what would prevent that railroad from saying to the Memphis man, “I do not want any more of your cotton, and I will charge what I please on your local freights.” They would evade the provisions of the bill and make these charges more to the Winona man.

Mr. DUNN. Do you think the railroads ought to refuse the Memphis business?

Mr. FINK. Not at all; but if they were to ask more than it costs to carry it by river, which they have a right to do, they would not carry any cotton.

Mr. LONG. You could either reduce the rate from Winona to New Orleans below the sum of \$1, so that they would be charged less for the short haul than the long haul, or you could put up the rate from Memphis to New Orleans to \$4. You must either do one or the other of those things?

Mr. FINK. Yes; or leave the Memphis business alone.

Mr. LONG. What is the effect of doing either of those two things?

Mr. FINK. You would lose the Memphis trade, and you would have to charge more on the cotton from Winona to New Orleans.

Mr. LONG. If you put the rate down you cannot run your road, and if you put it up you cannot run your road?

Mr. FINK. That would be the case.

Mr. LONG. In other words, either method to which you might have recourse is an evil and would be disastrous to the operation of the road?

Mr. FINK. Yes, sir; and to commerce.

The CHAIRMAN. I will tell you the explanation of the railroad men. It is to put the rates as low as they can in order to run the barge lines out and then charge what they please.

Mr. FINK. The railroads have too much sense to try to run out the barge lines, and they do not try to do it.

Mr. BARKSDALE. Does not the railroad take advantage of the shipper at Winona?

Mr. FINK. It must charge him more than it charges the Memphis shipper.

Mr. BARKSDALE. It takes the advantage of the fact of their having no competition without reference to the justice of the charge.

Mr. FINK. No; not at all. I say I cannot pass an opinion upon the justice of this particular charge, but so far as the principle is concerned the people living along the line of that road ought to be able to sustain the road. It was built for their special use. No persons would have engaged in building a railroad from Memphis to New Orleans in competition with the Mississippi River if they thought they would have to make as low rates on all their business as the steamboats do. The people who built that railroad relied for their compensation principally upon the local shippers over the road. They have to make the tariffs on through freight very low and assess the people higher who live along that line and have no other transportation facilities. They must make a rate which will at least pay the cost of operating the road and a profit on the investment. As long as they do not charge them more than it costs to do the work, and as long as they do not charge any more than a reasonable profit on the investment, these people have no right to complain; they certainly pay less than they paid before they had a railroad. In other words, the reasonableness of the charge in itself must be determined, not by comparison with river transportation; the value of the service to them and the cost of performing that service must be considered; not what it may cost to transport cotton by river. From all these elements you must determine whether the charges are reasonable.

Mr. GLASCOCK. In other words, then, you say the railroad companies have the right to assess the traffic all it will bear, taking into consideration the points of competition and non-competition?

Mr. FINK. Yes, sir. One of the principles of railroad management is not to make the traffic pay more than it will bear.

Mr. LONG. That is a very different proposition from his.

Mr. FINK. Yes, sir; but I wanted to let him have his own way of expressing it. I, however, do not want to put myself on record as having assented to his proposition in the sense in which he expresses it; but I want to explain it in the sense I would propose it. We assess the traffic according to what it will bear. Unfortunately the most of the traffic we carry will not bear enough to pay for the cost of carriage. We have to carry a great portion of traffic for considerably less than the actual cost of doing the work, because it does not bear the full cost, including the interest on the capital invested. Then, in order to make up that deficiency on that kind of traffic which is the bulk of our traffic, grain and flour, for example, we charge other articles such as silks, &c., more, but not more than these articles can bear.

Mr. GLASCOCK. In other words, you make up the deficiency on A's traffic by making B pay a double amount?

Mr. FINK. No. We do not charge A as much profit as we charge B. You do not understand me.

Mr. GLASCOCK. You have a certain amount to raise, as Mr. De Pew said, to give you a fair return on your investment?

Mr. FINK. Yes.

Mr. GLASCOCK. In order to do that you have to assess A and B. You assess A a small amount, and you have got to assess B a greater amount?

Mr. FINK. Yes.

Mr. DUNN. A and B have an equal interest in this matter.

Mr. FINK. No, sir.

Mr. LONG. That is where the question of equal rights comes in.

Mr. FINK. Every citizen is interested in what we do.

Mr. DUNN. We will put it equal rights, then.

Mr. FINK. If I understand you, you want to make a tariff to assess each shipper so much per ton per mile. That is your argument?

Mr. DUNN. Yes.

Mr. FINK. Then I wish you would pass a law to do it, and tell me how it can be done. It costs 40 cents to carry 100 lbs. of freight from Chicago to New York. Now, make a law that will give us 40 cents a hundred on grain, provisions, lumber, and iron (which constitute the bulk of the traffic), and then we will carry your silk and other things at 40 cents. We are obliged to make a rate of 25 cents on grain, 15 cents less than it costs us to carry it, and cannot collect the cost. If you will help us to collect the full cost of transporting grain we will be very glad to have you pass such a law. We must assess these charges according to what the articles will bear. Grain will not bear more than 25 cents a hundred, and that is less than it costs to carry it, if you include interest on investment, and we must make more profit on other freight. Suppose it costs us 20 cents a hundred to carry grain (I mean the mere cost of carrying it, without any profit or interest on the investment); we get 25 cents. When

we carry silk we get 75 cents from New York to Chicago, and we make 40 or 50 cents a hundred on that article; but it will bear it because it only costs about 3 cents on a dress. This is the principle by which the commerce of the country is developed. If you pass that law, and that is what I object to, that we shall charge so much per ton per mile to everybody, regardless of what the article will bear, three-fourths of the traffic of the country will have to stop moving. You cannot get 40 cents a hundred on grain from Chicago to New York. It will not bear it. Neither can we carry all our traffic for 25 cents a hundred. The railroads could not stand it. You must take your choice between those two alternatives. But I will suggest that you let us alone to work out the problem ourselves, and you will continue to have a prosperous country, as you have now.

Mr. BARKSDALE. What is it that brings down freight on cotton from Memphis to New Orleans to \$1 per bale?

Mr. FINK. The barge lines—the Mississippi River.

Mr. DUNN. That is what protects the Memphis shipper from being overcharged?

Mr. FINK. Yes. Not overcharging; rather say from not charging him enough. I want to put it in that way.

Mr. BARKSDALE. What is it that protects the Winona shipper?

Mr. FINK. He has this protection: When he sends his freight to Memphis he gets a low rate from Memphis to the East, although he has to pay the local charges to carry his freight to Memphis. But what did he do before he had a railroad? What protected him then?

Mr. BARKSDALE. Then he has no protection?

Mr. FINK. Of course he has protection. If he can go into court and show that this is an unreasonable charge, that this railroad makes 10, 15, or 20 per cent., when he can show that the railroad is extorting money from him, which he can show to any intelligent jury, he can cause the rates to be put down. He has the common law to protect him.

Mr. LONG. From Memphis he has the tariff of the Memphis man, I suppose.

Mr. FINK. Yes. You cannot expect these railroads to be built at great expense and then do the work at the same rates charged by the steamboats.

Mr. LONG. Doesn't this all show that you can take up each individual case and bring it before the country and work justice.

Mr. DUNN. Work justice how?

Mr. LONG. By bringing the matters before the public and reporting them to the legislatures if there is any injustice.

Mr. DUNN. Just tell of them?

Mr. LONG. Yes, just tell of them.

Mr. TURNER. What is the relative rate by river and rail from Memphis and New Orleans?

Mr. FINK. Unfortunately the railroads there have got into a quarrel and—

Mr. TURNER. I mean for the last twelve months.

Mr. FINK. I think 75 cents has been the barge rate for the past twelve months; and the railroads have charged about \$1; at least they want to charge \$1, if they can get it; but they have gone out of the business, because they couldn't get a dollar.

Mr. TURNER. The reason I asked was, that I have been informed that the railroads are shipping about ten times as much cotton as the river.

Mr. FINK. No; the barges have carried large amounts the past year; during the past crop year the barge lines have taken about 37,000 bales against about 6,000 bales for the corresponding period of the previous crop year; for that reason the railroads are going out of the business; they cannot carry in competition with the barge lines.

Mr. BARKSDALE. The point I am making is that for a distance 100 miles shorter they are charging \$3.25 a bale, against a charge of \$1 to New Orleans.

Mr. LONG. Suppose this railroad went to Winona and stopped there and did not go to Memphis?

Mr. FINK. Then they would not complain; the rates received may be too high; I do not say they are not. Whether they are or not has to be explained upon the principle that the railroads have to earn their living out of their local business; they take the through or competitive business for what net profits they can get out of it, and if they can make any money out of it they can reduce their local charges. In the case you mention the charge may be too high and you may be unjustly treated; I do not say you are not.

Mr. BARKSDALE. That is not an exceptional case.

Mr. FINK. The principle, however, is all right. You cannot operate a railroad on river rates, because you have to build the railroad; that costs money. You have not to build the river; the river is already there.

Mr. LONG. Does that railroad pay any dividends?

Mr. FINK. That is the point. Is that railroad a prosperous road? Does it pay any dividend? Could it carry your cotton for less, and pay its operating expenses, and interest on investment? It is perfectly just and to the interest of the people that in

such cases as you have mentioned the railroads should charge more for shorter hauls than for long hauls. In other cases it might not be just, but in this case there is very good reason for it, and it is to the advantage of all parties that it should be done, and the enactment of the Reagan bill preventing the railroads from charging not more for short than for long hauls would act very injuriously to all parties. Let us see what would be the result. First, the road from Memphis to New Orleans could no longer carry any Memphis cotton; they would rely for their revenue exclusively upon their local business. The tendency would be to increase the charge from Winona to New Orleans. But this would not be the only effect. As soon as the railroads cease to compete with the river, the barge lines would put up their rates. Instead of a dollar they would probably charge a dollar and a half. The Reagan bill may put some more into the pockets of the owners of the barge lines, but it would do so at the expense of the shipper; it would raise the cost of transporting cotton. Is this regulating commerce in the interest of the planters? As soon as the barge lines increase their charges, the railroads carrying cotton direct from Memphis to the East would raise their rates. They are low enough now, by reason of this competition with the barges, and they will be glad to get that opportunity. This is the practical effect of the Reagan bill; quite the reverse from that which the author intended. Its effect is to hamper competition, to obstruct, not to regulate, commerce, and this is the reason why we oppose it, why we ask Congress not to enact such injurious measures.

To return to the case which I had under consideration when this discussion commenced, and wherein I refer to the commercial necessity of making a lower rate on traffic for export than domestic traffic, I will ask: Wherein does the injustice consist if the railroad companies carry freight intended for export to New York at lower rates than if intended for domestic consumption as long as the charges for the latter are reasonable? It is certainly not unjust to the people in the West to create for them a market for their products. It certainly is not unjust to the merchants of this country who derive some profit from this trade. It certainly is not unjust to the American people that the English people should contribute to the wealth of this country by the purchase of its products. It certainly is not unjust to the railroad companies that they should increase their business, even at a small profit. It certainly is not unjust to the domestic consumer of the article in New York, who pays a higher price of transportation for it than the exporter; because, whether the railroad companies do or do not engage in the export business, the rates of transportation to the domestic consumer, reasonable as they are, remain unchanged. If the feelings of the domestic consumer are hurt because the exporter gets lower rates of transportation, he can console himself by the reflection that the foreign consumer has to pay the ocean freight in addition to the inland freight, making the total cost to him much higher than to the American consumer. To carry the same class of freight for the exporter for less compensation than for the domestic consumer is, therefore, not unjust, because it is beneficial to all engaged in this transaction; it hurts no one; the only disadvantage is to the foreign competitors, in this case to the people in Norway. Is it the duty of Congress to protect foreign nations against American competition by the passage of such bills as the "Reagan bill"?

The case I have above cited is only one of thousands that daily occur in this and other countries; and it is because the railroad managers are acting in the interest of commerce—no doubt from motives of self-interest—and are adopting the practical and proper plan in the management of this property, that you hear so much complaint against them. Three-fourths of the complaints against railroads arise not from the fact that railroad companies make unjust discrimination, but that the people who find fault with the railroads have no clear conception of what really is just or unjust discrimination. They judge the case simply from the standpoint of individual interest, and from a surface view of it, without considering all the facts that have a bearing upon it.

I will mention one more instance to show the practical working of the provision of the "Reagan bill," by which the railroads will be required under all circumstances to make the same charges for like services, a provision that would destroy competition between transportation lines as well as between markets. In a train that leaves Buffalo for New York over the Erie Railroad, with thirty cars loaded with grain, there may not be two cars which pay to that road the same rate per unit of weight. The rates would be higher on a car-load of grain coming from Chicago than upon one coming from Cincinnati, because Cincinnati has shorter routes to New York; the Erie road being the longer line it must charge less per ton per mile, in order to compete with the shorter lines. To force the Erie road to charge the same rate on all freight, no matter where it comes from, would exclude it from competition at all points to which it forms the longest route. Under the "Reagan bill" the Erie road would be so excluded. At the same time the New York Central and Pennsylvania Railroads, which are entirely located in one State, and which are not subject to the provisions of the "Reagan bill," would carry the business which is to be taken away by an act of Congress from the Erie Railroad, thus creating the worst kind of unjust discrimination.

The "Reagan bill" contains another definition of unjust discrimination, which is equally as erroneous as the one I have just criticised. It prohibits charging more for short hauls than for long hauls. The principle that transportation charges for short hauls should be less than for long hauls, or at least no more, is an excellent one, and should be adopted in all cases where its violation would inflict injury upon the people. But there are a great many cases in which a violation of this rule would inflict no injury upon any one; but, on the contrary, would be beneficial to the people as well as the railroad companies.

If this provision of the "Reagan bill" were carried out, it would exclude the railroad companies from carrying a large amount of traffic, it would prevent the proper development of the resources of the country, and would prevent that wholesale competition between transportation companies and commercial communities which should be encouraged and not prohibited.

Whenever the railroad companies charge less for hauling freight over long distances than over short distances it is always done for the purpose of meeting competition at distant points, from which they would exclude themselves by higher charges. Neither can they reduce the rates on the shorter haul, because they cannot afford to transact all of their business at the low rate forced upon them by competition at distant points.

I will illustrate this by a single case, which represents thousands of others that arise in the daily practice of railroad management. The railroad lines from New York to New Orleans carry freight in competition with the ocean steamships running from New York to the same point. The railroad charge on first-class freight is 76 cents per hundred pounds, and frequently only 50 cents, when steamship competition makes it necessary. This freight is carried through Atlanta. The rate from New York to that point on freight that stops in Atlanta is \$1 per hundred pounds, although the distance to Atlanta is only about sixty-four hundredths of the distance to New Orleans. But it must be borne in mind that New Orleans has always enjoyed the advantages of cheap ocean carriage. As soon, however, as a railroad is built to New Orleans, through interior points, it is claimed that because railroads can and do carry freight through these points to the seaboard at rates to meet the competition with the ocean routes, they can and must carry freight as cheaply to interior points. This claim is to be sanctioned by the "Reagan bill" as just; and under the operation of that bill the railroads could not charge more from New York to Atlanta than to New Orleans. And the Pacific railroads have to make the rates from New York to San Francisco in accordance with the rates prescribed by ocean transportation. And because they do that every man in the interior thinks he ought to have the same rates as the San Francisco people get.

In other words, the railroad companies are to provide, at their own expense, as cheap transportation to the person living in the interior as is enjoyed by those who live on the sea-coast. This claim is based upon false reasoning, and upon an insufficient knowledge of facts. It is assumed that if railroad companies can carry freight over long distances for a certain compensation, they can certainly carry it over short distances for the same compensation, or even lower, since it costs less to do the work. It is very difficult to make those who reason in this way understand that railroads must rely for support upon the people for whose special use they were built. Now, the railroads from New York to New Orleans were not built with the view of relying for their support upon the New Orleans business, because it was well known that that business was neither sufficient in amount nor profit to justify the building of the roads. The cities distant from the ocean, and which formerly had no transportation facilities, are chiefly benefited by the railroads. If it be the correct principle that people should be charged in proportion to the use they make of the roads, and according to the value which the service has for them, it is certainly just and proper that the people in the interior should pay more for railroad transportation services than those who have always had cheaper water transportation, and who could get along very well without any railroads. The business that the railroads transact to New Orleans is merely incidental; the rates are fixed by steamboat competition, and if there is any profit above the bare cost of doing this work, no matter how small that profit may be, the railroad companies are justified in transacting this business, even if it fails to pay a proportionate part of the interest upon the investment. Having already a roadway that has to be operated, having to pay interest on the investment, and having to incur the general expense of operating that roadway, whether the New Orleans business is transacted or not, a railroad company can afford to enter into competition with the steamship lines at a much lower compensation than that for which it could transact its whole business.

The "Reagan bill" considers this an unjust discrimination—in the case mentioned—against the people of Atlanta. Let us consider to whom it is unjust. Who suffers from it? The people of Atlanta do not, for the charges made to them are perfectly reasonable in themselves. They never had transportation services performed so cheaply until these railroads were built; in fact, Atlanta is a city that was created by the railroads, and from the very nature of its geographical location it cannot expect,

under any circumstances, to be put upon the same footing—and this at the expense of the railroad companies—with the people who live on the seashore. Although freight is carried through Atlanta to New Orleans at lower rates than to Atlanta, this itself constitutes no injury to the people of Atlanta, because if the railroads did not carry it at these low rates the steamships would, and the facts as to the relative charges made to the cities in question would not be changed. If there be any unjust discrimination in these charges it would exist regardless of any act of which the railroads are guilty.

Should the "Reagan bill" become the law of the land, it would compel the railroad companies to withdraw from competition with the steamship lines to New Orleans; it would deprive the roads of some profit that they would endeavor to replace, if in their power, by charging higher rates to interior cities; it would deprive New Orleans of the advantages of railroad transportation and competition with the steamship lines, and would probably cause the steamship lines to increase their charges. These would be some of the results of your legislation upon the interstate commerce of this country. You would not remove the evils of unjust discrimination, but would deprive the people of the benefit of railroad competition and the railroad companies of some revenue.

I am aware that the author of this bill did not intend it should have this effect. It is want of knowledge of the practical conduct of railroad operation and commercial affairs that leads him to formulate a law which must have the contrary effect to that which it was intended to have. I therefore urge upon your committee that the railroad transportation business should be fully understood in its practical and commercial bearings before legislation is attempted.

In my opinion, it is utterly impossible to formulate a law defining just and unjust discrimination. Any act is just in commercial transactions and in railroad management which does no injury and benefits all concerned. If it can be shown, as I believe it can, that nobody suffers from the fact that the railroads carry freight more cheaply over long than over short distances, the carriage of such freight is just and proper, and, being also beneficial to the commerce of the country, it should rather commend itself to the favorable judgment of legislators than to be made an act of misdemeanor, punishable by fine, as the "Reagan bill" proposes.

The cases which I have cited are types of a thousand others that occur every day in the practical management of railroads in this country and other countries, which give rise to so many complaints for which there is no just cause, and therefore no remedy.

I stated the "Reagan bill" charged that if a railroad took freight from New Orleans to Memphis for a less rate than a shorter haul that it is not justifiable. I will not finish that part of the argument, and do not think it is necessary to detain you further. In every case the same questions govern.

In England the people complain that freight is carried by the railroads from Liverpool to London at a lower rate than to interior points, the rates from Liverpool to London being made to meet the competition by ocean.

The people of France complain because the products of Africa, which can be sent to Belgium and Holland direct by ocean, are carried by rail through France from Marseilles to those countries at lower rates, on account of this competition, than the interior business is transported by the railroads.

The people of Germany complain because the grain of Hungary passes through Germany to England at lower rates than is charged to distribute domestic grain, these through rates being made lower on account of the competition with other transportation routes.

The late English investigation brings out the complaint of the sugar refiners of London, who are obliged to pay as much for the transportation of sugar as the refiners at Greenock, although the distance from Greenock to common points of competition is twice as great as from London. The London refiners desire to exclude the latter from competing with them, and are in favor of tariffs constructed upon the Reagan plan.

The shipper who resides in the Rocky Mountains, now that the railroads pass his door, claims that he is entitled to have freight transported from New York at the same rate at which the steamship lines carry it from New York to San Francisco.

And this is the character of thousands of complaints that are heard from all parts of the country.

These complaints arise from the expectation that the railroads can do two things at the same time that are entirely incompatible—that they can base their charges upon "mileage," or "cost of service," and at the same time conform also to the laws of trade and competition.

It is the conflict between these two principles that causes these contradictory claims which are made upon the railroad companies all the world over.

The charges for transportation services upon all competitive traffic must be determined by their market value on purely commercial principles. Articles of small value, which could not be moved if the full "cost of the service" was charged, including

the interest on the capital invested and the general expenses, must be moved at a smaller profit. On the other hand, upon articles of great value higher rates may be charged, even exceeding the actual cost.

The problem to be solved is to establish upon a system of about 120,000 miles of railroad transportation tariffs that will serve the best interests of this country with equal justice to all parties, to the people as well as to the railroads.

Now, with every desire on the part of each individual railroad company to accomplish that object, how is this possible under the peculiar conditions under which the railroad system of this country has been created? There are some twelve hundred railroad companies in this country, chartered by the different States, each company entirely independent of the other as regards the establishment of tariffs. If these tariffs are made separately by each railroad company without reference to the other there can be no uniformity, and the common-law principle that for like services like charges shall be made, cannot be carried into effect. This is the fault of the system adopted in this country, and the railroad company cannot be held responsible for the resulting evils, and most of these evils arise from the fact that the people have to deal with twelve hundred independent railroad companies, each of which can make its own tariffs and vary it when it pleases. Can it be expected that under such circumstances the charges can be made alike for like service, and that unjust discrimination can be prevented?

To appreciate the difficulties met in performing a work of so great magnitude and complication, by so many separate and independent railroad companies, let us suppose for a moment that in this country duties on imported goods were to be determined and collected by each of the independent States instead of by Congress, to suit its own special interests, disregarding the interests of other States or the general interests of the whole country. Could it be expected that a tariff constructed by such agencies would be just, uniform, and harmonious in all its parts? Even with the full power of Congress to regulate the tariff, is it perfect? Does it avoid unjust discrimination, and is it satisfactory to all interests? Yet, in comparison with the work that Congress proposes to do, the difficulties encountered and the complications met in making a just and equitable transportation tariff for upwards of 100,000 miles of railroad that would be perfectly satisfactory to all interests, are incomparably greater.

It is a great injustice to hold the railroad companies responsible for those evils of the transportation business which are the result of the system adopted by the people in creating these railroads; they do not result from a violation of the laws governing common carriers but are inherent in the system. The railroad companies suffer more from it than the public, and they have made and are constantly making efforts to remedy these evils. It is surprising that under the circumstances of the case they have been able to control the tariffs and to prevent unjust discrimination as well as they have. It is surprising that there is not more chaos, not more confusion, not more unjust discrimination, and that the people are served as well as they really are.

It is apparent that in order that the transportation tariffs of this country should be uniform and just and equitable, that there is required some central control over these independent railroad companies, some authority by which these tariffs can be determined. And this is no doubt the underlying principle of some of the provisions in the bills before your committee by which a board of commissioners is to be established to prescribe these tariffs. But the measures proposed are entirely impracticable. No three or nine men can control the tariffs over a system of railroads of 120,000 miles. That is the work of thousands of men. It is a work that should be performed by the proprietors of the property, and not by outsiders who have no interest in it. But it should be done, of course, in conformity with the laws of the country, and especially with the laws governing common carriers.

But it is entirely impracticable to control the railroad tariffs in this country under a central commission such as is contemplated in some of the bills under consideration. In order to perform this work intelligently and properly it would require the duplication of just such an immense organization as the railroad companies now possess for the same purpose.

Each one of these twelve hundred railroad companies has at least one officer who has special charge of the tariffs of the road, and who often has many assistants, all trained experts in the transportation business, and who, from many years' experience on particular roads, understands the wants of the people who are served by these roads. These officers are in constant contact with the shipping communities, either personally or through agents especially appointed for that purpose, or through the many station agents located along the lines of the roads. The latter are in constant communication with the shippers, and are in a position to know exactly their wants, receive their requests, hear their complaints, and report the same to the superior officer. In this way all the facts that are necessary to be considered in the establishment of tariffs are brought before the proper authorities, who are enabled to take intelligent action thereupon.

Assuming that these station agents are located along the line of these roads at a distance of 5 miles apart, there would be twenty thousand agents, who report to

the general freight agents, and who bring the shippers in direct contact with the head of the railroad administration, enabling it to judge of the wants of the people and to intelligently establish the tariffs.

It is not reasonable to suppose that nine commissioners, who stand entirely outside of these organizations, who have no such means of acquiring correct information, and who, perhaps, in the first place, may have no knowledge of, much less experience in, the transportation business, could evolve out of their own minds just and proper transportation tariffs, or could control, even if they were possessed of the highest accomplishments in that direction, a work that requires the services and agencies of twenty thousand people who, although not exclusively engaged in this business, whose services are necessary for the intelligent and proper conduct of the business. A work of this kind, if it is to be done effectively and properly, cannot be concentrated upon nine men.

Looking, therefore, merely upon the practical side of the question, it appears to me impossible for Congress to exercise any intelligent control over the railroad tariffs in the manner proposed by several of the bills before your committee. But even suppose that it were practicable, the question would have to be considered whether Congress has the legal right to determine absolutely the compensation for the use of the railroad property.

The right to fix the compensation for the use of property is the right to control that property. Under the Constitution of the United States (which merely enforces a principle that is indorsed by all right-thinking men), property cannot be used, either by the Government, or under its authority by private persons, except due compensation is returned for its use to its owner. Within the limits fixed by the common law or by their charters the railroad companies have the absolute right to determine the compensation for their services. To take this right from them means the confiscation of their property, to the extent at least that their compensation is reduced below that to which they are rightfully entitled. I do not entertain the least doubt that Congress has a right to regulate the use of property in the interest of the public, but this right does not include the right of confiscation. No measure can be adopted by Congress for the regulation of railroad tariffs that interferes with the proprietary rights of the railroad companies unless Congress is prepared to recompense the companies for losses incurred by any act of Congress.

The same questions with which you are now dealing have been dealt with in European countries. The necessity of a central authority to control the railroad tariffs was recognized there as it is recognized here and everywhere. When the Prussian Government came to the conclusion that it was necessary to have a central authority over the railroads in order to cure the evils that arise from the separate management of railroad tariffs by so many independent railroad companies, it adopted the only proper course consistent with the proprietary rights of the railroad companies; it purchased all the railroads of the states, became the absolute proprietor, thus acquiring the legal right to control them.

This course is in strong contrast with that of some of the State governments in this country, who, in their attempts to rectify the evils of the transportation business, adopt a much cheaper but more summary plan. By an edict of the legislature this great property is handed over to three men, who have the power to arbitrarily determine what remuneration railroad companies shall receive for their services. These men are responsible to no one for their acts, and can do with the property as they please.

The States do not deal with their own property in such an outrageous manner. For example, the State of New York, which owns the Erie Canal, did not select three men and hand the property over to them to do with it as they pleased. This State has a greater respect for its own property than some of the other States have shown for the property of the railroad companies. New York controlled the tolls on the canal by a board of commissioners, composed of the highest officers of the State, who had the power to recommend only, subject to the direct control of legislative committees, and finally of the legislature. But in some of the States the property of the railroad corporations is handed over unmercifully to the judgment of three persons who practically stand outside of the law.

I merely desire to call the attention of the committee to the injustice of controlling railroad tariffs directly by legislation, as is proposed in some of the bills before you. That control belongs to the proprietors of the property, subject only to the laws which regulate all other common carriers. Hence my opposition to the provisions of several of the bills before you, which attempt to lodge that power in a commission, and also upon the ground of the impracticability of establishing the railroad tariffs of the country in that way. Yet I admit that there should be some central control over the transportation tariffs of the country, with the view of securing uniformity and justice in transportation charges. The difficulties of the problem are these: That without the legal power on the part of Congress or on the part of the States to fix transportation charges, with the right of each railroad company to determine the charges for itself, how are the rights of the public also to be guarded and the desired result to be obtained? How under these conditions is uniformity to be brought into these tariffs,

and how is unjust discrimination to be avoided? This is the great and difficult problem to be solved.

I have already referred to the fact that while the object of legislation is, and should be, to prevent unjust discrimination, none of the bills before your committee directly define what is unjust discrimination; and that it is not possible to do so. A mere mandatory law that there shall be no unjust discrimination cannot have the effect which is contemplated.

The Reagan bill and others of similar import make the condition (and properly so) that all railroad companies shall publish their tariffs, and that they shall not be permitted to make any variation whatsoever from published tariffs.

So far the bill has my full indorsement. But it is defective in two very important particulars: In the first place this rule only applies to common carriers via railroads, when it should equally apply to all common carriers, for the reason that the tariffs of railroad companies are influenced and regulated by the tariffs of carriers over water routes.

The second and most serious objection is that this bill makes no provision as to what these tariffs shall be. It leaves each company at liberty to make its own tariffs.

Now, supposing that on the date on which this bill is to go into effect these 1,200 railroad companies should have 1,200 different tariffs. Would that prevent unjust discrimination? Would we have like charges for like services? We would evidently have as many different charges as there are railroads and as much discrimination as ever existed before the Reagan bill was enacted. The Reagan bill omits the fundamental principle that just and proper tariffs should be in existence before any laws are put into effect to maintain the same. Upon this question of tariff the most important one, the Reagan bill, is silent except in the few instances I have mentioned, in which it is attempted to define unjust discrimination, and which are in themselves unjust and objectionable, as I have endeavored to show.

The practical difficulties of carrying out the Reagan bill and similar bills are also increased by the fact that Congress cannot legislate upon the whole tariff question, but only upon interstate tariff. Some of the most important roads in the country are located in one State and are not subject to the provisions of the bill; are not even obliged to publish their tariffs, and yet the tariffs of these roads located in one State completely control the tariffs of a large system of railroads, if not of the important interstate traffic of the whole country. Admitting, therefore, as I do, the correctness of the principles embodied in the bills before Congress, namely, that the transportation charges shall be just and reasonable, I consider it impracticable, yes, impossible, that any direct legislation, such as is now contemplated by the bills before you, could be of the least practicability. On the contrary, I think should these bills be enacted into law it will rather increase the evils than diminish them.

I think, however, there is a solution of the problem. It is not a direct solution, but it is a practical one. In this question, as in many other practical affairs of life, the longest way round is the nearest way home. If we propose to reach the top of a steep hill that is not accessible in a direct line, we build a road that winds round. We perhaps could never reach it in any other way.

The railroads of this country, and, in fact, of all other countries, recognizing the necessity of uniformity of tariffs, not only as a matter of interest to the public, but as a necessity for their own interests, have endeavored to solve the problem by agreements among themselves. They agree together to establish uniform tariffs, they agree to make the same charges for like service. It is rather strange that such agreements have generally been looked upon with disfavor by the public, and that they have been stigmatized by the term of "combinations." The aphorism of Stephenson is frequently quoted in a spirit of reproach, viz: "Where combination is possible, competition is impossible." He should have said (and would say if he were living today), "Where competition is possible, combination is necessary." Combination is necessary where there is competition, because without combination between competing carriers it is impossible to carry out the intention and spirit of the common law that there shall be like charges for like service. There are, of course, different kinds of combinations. There may be combinations for the purpose of extorting money by making unreasonably high charges. Such combinations, of course, are unlawful. But there are combinations for the purpose of securing uniform tariffs and equal charges for like services; such combinations, when the rates charged are reasonable in themselves, are not only lawful, but they are necessary in the best interests of the people, as well as in the interests of the railroad companies.

When two or more roads come into competition with each other for the same business, it then becomes necessary that there shall be some understanding (called, generally, combination, to make it odious) between these roads as to the rates that shall be charged for the same services. If one road were to charge one rate and the other another, of course the road which charged the lowest rate would do all the business. This would result in the two roads underbidding each other until the business became unprofitable; and this underbidding produces the constant fluctuations in rates as well as unjust discrimination.

It is this unjust discrimination which the bills before your committee intend to prohibit. Yet, at the same time, these bills intend to prohibit combinations or agreements between railroads, generally known as the "pooling system." It is generally supposed that these combinations between railroads prevent competition. This is a great mistake. They do not and cannot prevent competition. It is necessary to distinguish between legitimate competition, which is the spirit and life of trade, and competition that results simply in the ruin of the parties that are engaged in it. The latter is not competition; it is simply destructive war.

The object of the combination between the railroads, besides that of giving uniform tariffs and arranging through tariffs for the whole country, is to prevent ruinous competition. Competition between railroads is somewhat different from competition in other business. Competition between private parties soon comes to an end when prices get so low that the parties cannot carry on their business. A railroad company, however, can carry on competitive business for a long time at unpaying rates, and either not find it out, or else make the traffic for which there is no competition pay for the losses incurred on the competitive business. And this, again, creates unjust discrimination of the worst kind. The true plan is to assess the railroad charges in accordance with the value of the services rendered. The public can always afford to pay the full value of the services rendered. It is not to the advantage of the public to bankrupt all the railroads. The railroad property is so large and important that by its ruin and the ruin of its owners you destroy a considerable portion of the national wealth, you ruin the credit of the country, you ruin the industries that are dependent upon the railroad, the iron industries and other manufacturing establishments which furnish supplies to the railroads; you also reduce the wages of the employes; when the railroads do not earn any money, the laborers employed on the road cannot be paid, or their wages must be reduced. Frequently these laborers have to work for months unable to collect their wages from bankrupt railroad companies, and finally may not be paid at all.

I may refer to the difficulties which arose in 1877, during and after a long railroad war, when so many of the employes rose and "struck." This was the result of low wages or reduced time of labor during the railroad wars. In fact, it is hardly necessary to demonstrate that it is not to the interests of the people to have the railroad companies do work for less than cost, and this would be the inevitable result if they engage in competitive strife (as I will call it, to distinguish it from legitimate competition). The nature of the business is such that when one railroad underbids another in order to secure a little more business, then as soon as the other finds out that it has been underbid it has to underbid it still further, and so rates go down and down, until, as in 1881, freight was carried from Chicago to New York, 1,000 miles, for 8 cents a hundred. This is a loss of from 8 to 12 cents a hundred in doing the mere work, not to say anything of interest on capital invested. But, apart from the ruinous result to the railroad companies, these railroad wars are objectionable as far as public interest is concerned. During these wars each road makes its own tariff without combination and without any agreement with its competitors as to uniform rates. It may make changes from day to day in these rates, and the shippers do not know what the charges will be for twenty-four hours to come. One man may have laid in his supplies at the regular tariff to-day, and in a week from now the tariff is down to one-half of what it was then, and he is at very great disadvantage compared with his neighbor who lays in his goods a little later. The results of these railroad wars are most injurious to all interests, and the shippers understand this well enough. They are most satisfied when they have uniform rates, and when these rates are permanently maintained. Although, strange to say, while they want uniform rates permanently maintained, they also want competition between the railroads; that is to say, they want the railroads to underbid each other. It is clear that they cannot have both peace and war between the railroads at the same time. Now, it is for the purpose of establishing uniform tariffs, and to maintain the same without great fluctuation, to prevent ruinous wars, and the bankruptcy of railroads which would necessarily follow, that these railroad combinations are formed. The railroad companies agree upon the proper tariff to be charged and to have that tariff made known to the public to prevent railroads from making reductions secretly in these rates, and to charge alike for the same service. That is the object of these associations.

There is another feature of the railroad business which is little understood, and which also makes it necessary that competing railroads should combine for mutual protection, arising from the fact that a single road (be it only a hundred or a few hundred miles long) can affect the tariffs of a large number of roads, and, if so inclined, can ruin the railroad property in a large section of country. Hence the necessity of railroad companies associating together for mutual protection. There are laws which punish a person for setting his own house on fire, and thereby endangering the property of his neighbors. But, as yet, there are no laws to prevent railroad managers from violating their agreements as to the maintenance of proper tariffs, and from preventing them from unsettling the tariffs throughout the country, and causing the ruin of the railroad property in a large section of country, causing rail-

road wars and all their consequences, such as constant changes in the transportation charges, unsettling commercial values throughout the country, and cause unjust discrimination between shippers and communities. It is to prevent all this that combinations or agreements or co-operation, whatever it may be called, becomes necessary for mutual protection.

In all countries, and ever since there have been competing railroads or other competing transportation lines, the necessity for making agreements as to the common joint tariffs to be charged for the same services has been fully demonstrated.

If there were only one common carrier which could perform all the transportation services required, there would be no necessity for such agreements and combinations. If the Government owned all the railroads, as the Government of Prussia now does, there would be no necessity for combinations and agreements between the common carriers. In this country the Government does not own the railroads; it cannot and ought not to own them, and hence combinations and agreements between railroads are necessary in order to make the railroads of the country act together practically as one road, so far as the establishment of equitable and just tariffs is concerned.

During the last few years, and even since the Reagan bill was first introduced in Congress, great changes have taken place in the management of the tariff question, and in some measures the evils that existed at the time that bill was first introduced have been remedied by the voluntary action of the railroad companies in endeavoring to establish and maintain just and equitable tariffs. By experience, and often dearly-bought experience, the complaints of the people and the bankruptcy of many railroads have induced many railroads of the country to combine or act together, for the purpose of establishing and maintaining tariffs that do not unjustly discriminate. They have been generally successful as far as the interstate traffic is concerned in one respect, namely, agreeing upon proper tariffs.

If your committee will examine the published tariffs governing the transportation business for the great bulk of interstate traffic, you will find that these tariffs are as nearly satisfactory to the people as they probably can be made. They are governed, as I have explained before, by commercial principles, limited by commercial conditions, and the charges are extremely low and cannot well be made lower if the railroad companies are to exist at all. But the great difficulty which is encountered is to secure the strict maintenance of these tariffs by all the railroad companies. The competition between the railroads is so great that there is a constant tendency to underbid each other, which, of course, destroys the adjustment of the established tariffs and creates unjust discrimination between shippers and between communities. To avoid this, the only thing that needs to be done is to see that there is no deviation from these published tariffs. The enactment of the Reagan bill, leaving out the objectionable features to which I have alluded, and simply confining it to the enforcement of the published and established tariffs, would be a movement in the right direction. But I doubt if it would be of much practical force. There are so many ways of evading the law that the bill in its present form and without the addition of other measures could hardly reach the evil which it is intended to remedy. It would consume too much time for me to go into all the details, and to explain all the contrivances by which the proposed law could be evaded, and the impossibility of discovering its violation. Yet I do not urge this as an objection, but simply mention it to explain the reasons for the practical measures which the railroad companies themselves have adopted to reach the results contemplated by the Reagan bill and others, namely, the prevention of unjust discrimination.

The railroad companies in the various parts of the country have formed associations for the purpose of accomplishing the object of the Reagan bill. I am the executive officer of one of those associations, composed of about forty roads, and known under the name of the joint executive committee.

The general plan upon which they are formed is this: A central office is established, with a commissioner at its head, through which office the various roads whose tariffs are interdependent transact their business. This facilitates the negotiations upon all matters upon which agreements must be reached. Instead of forty different roads whose representatives live far apart, endeavoring to negotiate among themselves, there is now a central office through which each member can communicate with the other members. The commissioner is in a position to know the wants of each of the members, and can arrange the proper plans between them.

The members of the committee meet from time to time and agree upon the more important questions. When they cannot agree as to matters involving the property of the roads, such questions are not decided by majority rule, but they are submitted to arbitration and decided upon their merits, with due regard to the rights and interests of each party. In this way conclusions must be reached and questions must finally be settled. They are not to be left open. If they were left open they might lead to disruption. The decision of the board of arbitration is binding upon all the members. The action of the committee and the decisions of the board of arbitration are to be enforced by the executive officer, the commissioner.

This organization constitutes a complete self-government for the railroad property

represented on the committee. The special interests of each member must be subordinated to the extent that it may be necessary for the benefit of the whole, thus avoiding wars and contentions and all those injurious consequences which it is contemplated to remedy through the bills that are before your committee.

The difficulties encountered in legislating upon the establishment and maintenance of tariffs are very great, as the interests of these parties are so diverse and conflicting. Formerly, before complete and permanent organizations were established, representatives of the various roads met in conferences; but, in the case of failure to agree—which was the rule rather than the exception—the questions at issue were left unsettled and each road acted separately, and no joint tariffs could be established; and the result was railroad wars, fluctuations in rates, and unjust discrimination. It is difficult for the representatives of so many roads to come together at the same time and at the same place. But even if they were fortunate enough to agree there was no organization to carry these agreements into effect. No sooner were these agreements made than they were broken. There was no executive officer to see that each party conformed to the agreements. The agreements were differently understood by the different parties, and were, therefore, hardly ever carried out, and from this resulted unjust discrimination.

Under our present plan, in case of failure to agree, the question at issue is submitted to arbitration, and the executive officers are appointed, whose duty it is to see that the agreements made and the decisions of the arbitrator are enforced. In this way a complete organization and government of the railroads is established; and the forty-odd roads represented in that organization are managed practically as one road, so far as the tariffs are concerned.

This would fully accomplish the object in view if these associations were not entirely voluntary and the executive officer powerless to enforce their decrees without the consent of each of the interested parties. What is wanted, therefore, is that these organizations should be legalized, if, as I believe, it can be proven that they are necessary and beneficial in their operation to the public interests.

The greatest difficulty, however, is encountered in attempting to maintain agreed tariffs; each road, desiring to obtain the largest amount of traffic, is tempted to secretly make reductions and discriminate in favor of shippers who control a large amount of traffic, and when one or more roads act in this way it destroys the adjustment of the tariffs and causes unjust discrimination, which it is desired to prevent. The only means which the railroad companies have been able to devise to prevent this, at least in a measure, is the "pooling system," which has been adopted at some of the principal points in the country merely as a means of maintaining the established tariffs. Its object is to remove the motive for making secret arrangements with shippers by assuring to each company a certain amount of traffic, which is regulated by mutual agreement or arbitration, according to the capacity and position of these roads.

It is this "pooling" system which is prohibited by the Reagan bill, and some other bills, and this, simply, I believe, because its object and operation is not understood. I believe it is one of the best practical means by which the object of the Reagan bill can be attained. The objection is made that it prevents competition. This objection is not based upon facts. I have explained already that the tariffs of the country are determined by competition between the waterways, competition between the markets. Pooling cannot remove these great elements of competition, nor does it remove the competition between the railroads themselves. It only prevents excessive, injurious competition; not legitimate competition. But the tariffs once determined by competition, then the "pooling" system is only used to enforce the maintenance of proper and well-adjusted tariffs to all shippers for like service.

If any laws could be passed by which the maintenance of established tariffs could be enforced, then the pooling system would not be necessary. But there are so many practical difficulties in the way of executing laws that might be made for that purpose that I have no hope that the desired object can be accomplished without the aid of the railroad companies, and that aid should be given by such organizations as I have described. These organizations deal with the whole tariff question; not only with the interstate tariffs, but also with the tariffs in the several States as far as they affect interstate tariffs. They overcome the difficulty under which Congress labors that it can only legislate upon interstate tariffs and not upon State tariffs. Commerce knows no State lines, Congress must respect them. Congress having no right to interfere with the tariffs of roads which are located only in one State, cannot control the tariffs of the country. This can be done through these organizations, more successfully. When the Reagan bill was first introduced into Congress, some five or six years ago, pooling was bitterly opposed by merchants and shippers because, under its operation, the established tariffs were maintained and railroad fights and wars were prevented, and the excessive low rates were prevented. This matter is now better understood, although I fear the authors of some of the bills before your committee which forbid "pooling" have not kept pace with public opinion, and now rather represent the old prejudices, based upon a want of proper information, than the present public opinion. I might quote from many influential papers of the country that

are not accused of being special advocates of railroad interests, but will confine myself to reading a portion of an editorial article which appeared in the Commercial and Financial Chronicle, September 8, 1883. It says:

"The railroad 'pool' as a factor in the railroad operations of the day is now generally recognized as an indispensable aid in the conduct of our vast and complicated railroad system. The pool is a comparatively modern organization, but its utility is undoubted, and has been repeatedly demonstrated. It is the outgrowth of necessity, and it is likely to gain in importance with time rather than to diminish. It will remain engrafted upon our system just so long as the constitution of things remains as it is. Competition, if carried full length, can end only in destruction, the weaker must succumb, and this being so the usefulness of pooling contracts cannot be impeached.

"The pool may be supplanted by a better or a more satisfactory arrangement, but the demands which have given it life are too urgent to permit of its extinction in any other way. It is the friend of peace, and as such is unalterably opposed to war. It does not destroy competition—the repeated contentions within it show that—but rather restrains competition within reasonable bounds. The pool, moreover, is as invaluable to the shipper as it is to the railroad, for while by the maintenance of rates it insures to the latter profitable returns for the stockholders, to the former it insures equality of treatment with others of his kind by fixed and unvarying schedules, which, if observed in good faith, as they are expected to be, render rebates, &c., of course out of the question."

Five or six years ago you could not find such an article published in the daily papers. Everybody was down on pools. But public opinion has changed. I am sorry to say that the authors of the bills before your committee do not recognize the change in public opinion. I think when the Reagan bill was first introduced it represented public opinion, but it does not at the present time.

According to this plan the railroads, at points of competition, agree upon a division of the competitive traffic. After years of struggle it has been ascertained that that division takes place in certain fixed percentages, which hardly varies from day to day, or from month to month, or from year to year. It has been ascertained that during wars of rates the distribution of the traffic between competing roads takes place in the same proportion as during the time when rates are maintained. There are other conditions, such as the capacity of the roads, their location, their connection with trade centers, which really determine the distribution of traffic. Having ascertained from past experience, as near as this may be practicable, in what proportion the business divides itself between the competing roads, an agreement is made by which each of these roads restricts itself to carry a certain percentage of the total competitive traffic, and the necessary machinery is provided to carry out this agreement. Thus all motive for entering into a competitive strife, to pay rebates and drawbacks, and to do all these things which the "Reagan bill" condemns, have been practically removed.

It is certainly more effective to remove all motive for violation of an agreement than to rely merely upon the fear of the violator that he may possibly be discovered and punished, especially in a case like this, when there are so many modes by which his acts can be covered up.

This method of enforcing the properly established and published tariffs of competing lines has become popularly known as "pooling"—a most misleading term—and I am sure that when Mr. Reagan inserted that provision in his bill by which "pooling" is to be prohibited he could not have understood its meaning.

This practice called "pooling" has nothing whatever to do with the regulation of the rates. They are regulated upon recognized correct principles, which I have endeavored to explain; and the object of pooling is simply to maintain these rates alike to all shippers, thereby to prevent unjust discrimination and to secure reasonable compensation to the railroads; and this being exactly the professed object of the author of the "Reagan bill," instead of prohibiting this measure he would probably, or should have, legalized it if he had fully understood its meaning.

Mr. Reagan, no doubt, labored under the misapprehension that the system of "pooling" was invented for the purpose of exacting unreasonable compensation from the people, and that it was against public policy. I believe I have established the fact that it is utterly impossible in this country, with the great number of railroads and the great number of waterways, with the active competition in the markets that cannot be abolished by any combination, for the railroads to exact unreasonable charges. The method called "pooling" is not new; it has been resorted to at all times and in all countries since competing transportation lines existed.

In England competitive wars between the railroads have been prevented for the last twenty years by it. In 1836 the Right Hon. William E. Gladstone was engaged by the railroads as arbitrator to divide the traffic between the three principal railroads of England. This division settled many of the difficulties that previously had prevailed.

All the railroads of England are incorporated by the Government in an association

called the "clearing-house," which has enabled the English roads to take joint action in establishing and maintaining tariffs. In Germany the "Railway Unions" serve the same purpose.

In Austria even the railroads owned by the Government enter into "pooling" agreements with the railroads owned by private companies in order to prevent competitive strife between them. In this country similar plans have been adopted, and have been found to be successful in preventing the evils which the "Reagan bill" is intended to remedy. Yet, strange to say, these methods called "pooling" in this country, the only methods which have been found to be practical all the world over in dealing with these new transportation questions, are to be prohibited by the "Reagan bill." The railroad companies are condemned because they cannot maintain the tariffs alike to all persons, and at the same time they are to be prohibited by law from adopting the only practical method by which this can be accomplished.

The Government directors of the Union Pacific Railroad, in reporting upon a "pooling" contract lately made by that company with other roads, referred to the legality and advantages of "pooling," as follows:

"The contract came up for ratification before the full board at the meeting of December 20, 1883, and no opposition was offered to it from any quarter, the Government directors having inquired into the legality of its provisions in a letter addressed to Judge J. F. Dillon, the solicitor of the company, and being informed that it in no way violated the charter of the company, they consented to its ratification.

"A railroad war, in which rates are cut below the point where freights can be carried at a profit, is destructive to the business interests of the community, no less than to the corporations immediately concerned. Steady and fixed rates, even though they are high, are much more conducive to a healthy and prosperous condition than the unsettled and fluctuating rates, however low, which are brought about by the competition of railroads. It is confidently hoped that the contract will be accepted as the basis of a permanent arrangement between all the roads concerned, and that under it the roads will do a profitable business, while the communities along their lines will derive permanent benefit therefrom."

Here is an example where the Government directors are entering into pooling contracts, which, of course, if the Reagan bill is enacted, it would not be legal for them to do. Before I left New York I received a circular from a business house in that city referring to the views that are at present entertained in regard to the pooling system, and they are so different from those presented by Mr. Reagan that I have brought the circular with me and will read it. I was rather surprised to receive this document at this time, after I had prepared my argument upon the general character of pools. The circular is issued by bankers in New York, who sent these circulars to their customers to show, perhaps, how the railroad business affects the credit and the securities of the country. It is as follows:

OFFICE OF I. F. MEAD & COMPANY,
80 Broadway, New York, January 23, 1884.

DEAR SIR: What is frequently spoken of as the pool system but more properly speaking may be characterized as the supervision of traffic by a commissioner appointed by the railroad companies, is certainly not yet perfect, but Commissioner Fink is entitled to great credit for the progress that has been made in effecting such a system of supervision within the past few years.

Only a few days ago the whole country was seriously threatened with a railroad war, the results of which it was plain to see must be an enormous loss of revenue to the contending lines, an unsettled and unsatisfactory condition of affairs to the merchant shippers, and general dissatisfaction to all. Indeed, it appeared as if the history of 1876 and 1877 was to be repeated, when rates were driven below the actual cost of transportation.

So far as the Eastern lines are concerned, all this has evidently been averted, and there is also a very common belief that an adjustment of affairs between the C. B. & Q. and the Union Pacific and its allied roads will be reached without a war of rates. But this is not all; the success of Commissioner Fink's efforts in harmonizing the interests of the lines leading out of New York has led some of the Boston roads to form a similar pool, and we also hear that some of the Ohio railroads leading to the coal fields in the eastern part of the State have entered into a pooling arrangement for the transportation of coal from the Hocking Valley.

It looks as if the system would be very generally adopted throughout the country. So far, the combined roads have been satisfied with reasonable rates, and as long as they continue to work upon this basis, it is hardly to be supposed that any serious opposition will be made to the system. There is a better outlook for the maintenance of profitable rates than has existed heretofore for a long time. When the public comes to realize this fact and confidence is once more restored in the old established lines, we believe there will be a liberal buying of good dividend-paying stocks.

The street has been flooded with rumors respecting the Northern Pacific properties. During the day President Endicott, of the O. T. Company, sent a note to the president of the Stock Exchange stating that "the company has not diminished its holdings of

the various stocks, as stated in the report of the investigating committee." We are also assured that the company does not owe a dollar of floating indebtedness, the three million dollars obligations of the company not yet being due. The rumors as to the appointment of a receiver at present are therefore declared to be without reason.

The numerous other reports that were circulated were officially declared to be without foundation. Nevertheless, the ex-Villard stocks experienced heavy declines.

The rest of the market was steady for the first half of the day, but yielded in the afternoon. We attribute the general decline wholly to the break in the Villard stocks and not to any realization by the bulls.

Yours, respectfully,

I. F. MEAD & CO.

It is, of course, impossible to here enter fully into all the details of railroad management, and I merely call attention to some of the general features of the subject with the hope that before your committee recommends the passage of any laws prohibiting pools you will give the matter more careful consideration; for I am sure that the authors of the bills prohibiting pools are not yet familiar with the subject.

It is unfortunate that, owing to misapprehension on the part of the public, the associations formed by the railroad companies for the purpose of establishing and maintaining tariffs are called "pools." You might as well call the Chamber of Commerce, or the Produce Exchange, of New York, or the Government of the United States, a "pool," as all these associations are formed for the purpose of governing the transportation business in a uniform and intelligent manner, and in the best interests of the public and the railroads. The term "pool" properly belongs only to the method of dividing traffic between the competing roads; and this is done only at a few places. These associations would exist without pools. They are simply a central government of a number of railroads and accomplish practically the same purpose as the contemplated commissions to be established by the Government.

It will be admitted that the railroad companies understand the transportation business better than a commission appointed by the Government could understand it, and as they are the proprietors of the railroads they have a legal right to control the tariff questions, and they have the necessary organization, skill, and experience to enable them to do so properly.

Now, all that is wanted, in order to accomplish the purpose of controlling the railroads is, not to attempt to control each individual railroad but to put these various commissions under governmental control. That is, the Government should see that these commissions performed their legitimate work. Their organizations are already perfected, and by simply controlling the railroads through these organizations the whole railroad system of the country becomes controllable. These organizations, of course, should be legalized and recognized and dealt with by the Government. By this plan the Government does not interfere directly with the management of each road, it does not become engaged in commercial transactions, but simply exercises its supervisory power and sees that the railroad property is properly managed through these organizations in the interest of the public.

It is only in this way that the railroad problem can be solved in this country, and this is in accordance with the spirit of our institution. It recognizes the principle of self-government, and only of governmental control as far as it is necessary to guard the general interests of the public.

I am aware that this subject is yet so little understood, that at this time, perhaps, proper legislation cannot be expected, and I do not ask for it. I only repeat the suggestion which I made at the beginning of my argument: That a commission should be established, empowered to inquire into all these matters, and to report to Congress its conclusions. In my opinion it will come to the same conclusions that I have reached after long experience, and a great deal of reflection, namely: That the roads of this country should be governed through the associations established by the railroad companies themselves. That these organizations should be legalized, and should be put under governmental supervision, in order that they may be prevented from committing any act against the public interest. That their rules and regulations, so far as they do not conflict with the obligations imposed upon the railroads as common carriers, should be legally enforced upon the members of these associations.

In order that proper legislation may be had at some future time, I recommend to your committee the adoption of Mr. Horr's bill, establishing a board of commissioners, the sixth section of which provides:

"That said board shall in all ways endeavor to procure the data necessary to the gradual enactment of an intelligent system of national legislation, regulating interstate commerce, and shall make an annual report of its doings to the Secretary of the Interior on or before the first day of November of each year."

REGULATION OF INTERSTATE COMMERCE BY CONGRESS.

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TESTIMONY

OF

ALBERT FINK

BEFORE THE

SELECT COMMITTEE ON INTERSTATE COMMERCE

OF THE

UNITED STATES SENATE.

NEW YORK, MAY 21, 1885.

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WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1885.

TESTIMONY OF MR. ALBERT FINK.

ALBERT FINK (commissioner of the trunk lines and chairman of joint executive committee) appeared.

The CHAIRMAN. We shall be glad to have you give us your views upon the subject of the regulation by the Government of inter-State commerce. In your case we shall make no suggestions as to the mode of proceeding or the scope you may take, but we shall be glad to hear you generally and specially upon the subject in hand.

Mr. FINK. I am hardly prepared to deal with the question in that general way. I am prepared to answer any question that you may desire to ask. I had intended to prepare an argument to present to you, but unfortunately I have not had time to do so.

Senator HARRIS. You have the circular containing the questions upon which information is desired?

Mr. FINK. Yes; but I have said and written so much on the subject that I think I am already on record on almost every question asked in the circular, and probably I cannot do better than to recur to what I have already said elsewhere. I do not know whether the gentlemen of the committee have read the arguments which I have made on the subject of railroad legislation before several Congressional committees.

The CHAIRMAN. I believe I have almost everything you have said in print in my possession, and I think the members of the committee have had some portions of it, certainly that portion of it that got into the record of discussion in Congress during the last year or two. If you do not care to go into a general discussion, you may, if you please, take up the circular and give your views upon it as you choose, without our asking any questions.

Mr. FINK. The questions contained in the circular are very comprehensive.

EXTORTION AND UNJUST DISCRIMINATION.

The first question is:

What is the best method of preventing the practice of extortion and unjust discrimination by corporations engaged in inter-State commerce?

For the last forty years the best minds of all civilized nations have endeavored to answer that question. It cannot be said that it has been completely answered in any country. Perhaps the nearest approach to it has been made in Prussia, where, within the last few years, the Government has acquired, by purchase, all or nearly all the railroads in the State, and they are now operated as a unit under Government administration. It might be said, using a popular American word, that the Prussian Government has pooled all the railroads of the state and has thus solved the railroad problem. We also find it necessary in this

country to resort to pools, but on account of the large territory and the great number of railroads (there are about 17,000 miles of railroad in Prussia and 125,000 miles in this country) we are obliged to make a number of separate pools; and as we get no aid from our Government to control railroad tariffs, the efforts to do so have been so far made by voluntary association of the railroad companies, the operation of which cannot be expected to be entirely successful. The English people are still grappling with the solution of the railroad problem, as will appear from the records of the investigating committees appointed from time to time by Parliament; but even in England the adoption of the system called "pooling" in this country has greatly tended towards avoiding the evils which you now propose to remedy by legislation.

In France and other European countries the conditions under which the railroad system was created are so different from those in this country that we can hardly draw any direct lesson from the experience of these countries. In fact, in every country the measures for controlling railroads must be adapted to the existing conditions, which greatly differ in different countries. The plan that was deemed best in Prussia it would be impossible to adopt in this country. We have here to solve the problem in our own way, although the difficulties of the problem are precisely the same in all countries.

I make these remarks to show how difficult it is to answer precisely and definitely your first question, namely: what legislation is necessary to avoid extortion and unjust discrimination in railroad transportation charges? It would be necessary to go over the whole subject in all its intricate ramifications, and this would require more time than can be given to it in a short hearing before your committee; but I will endeavor to answer in a general way the questions asked in your circular.

Referring first to the subject of extortion, I may say that there is at present no legislation required to prevent extortion. That question has settled itself. If you would take the testimony of the people throughout the country, I think you would hear very little complaint about extortionate railroad charges at this time. There may be some cases, but I dare say they could be readily reached under existing laws. I think you will find that, instead of the railroad charges being extortionate, in many cases they are rather too low—less than they should be to keep the railroads in order for efficient usefulness.

DANGERS OF RAILROAD BANKRUPTCY.

The attention of your committee should be directed to the necessity of adopting means to prevent the whole railroad system, or at least a great portion of it, from going into bankruptcy. This may result not from any commercial necessity, but from the impossibility or impracticability of intelligently controlling railroad property, arising from the peculiar conditions under which it was created, no provision having been made for its being properly governed. At present the large system of railroads east of the Mississippi River and north of the Ohio River is carrying a large portion of the traffic for less than cost, not because there is any commercial necessity for it, but because of the dissension and war between so many independent railroad companies. If such a state of affairs is continued for any length of time, you will find that even those roads which have heretofore been looked upon as prosperous will be unable to meet the interest charges on their bonded debt; and the destruction of so large a property cannot but have the most injurious effect upon the general welfare of the nation.

THROUGH AND LOCAL RATES.

The CHAIRMAN. It is your judgment that the railroads are not charging too much on their short hauls, or, if you please, local traffic? I take it for granted you believe they are not charging too much on interstate commerce or on long hauls, but on the question of short hauls or local traffic do you think that same fact exists?

Mr. FINK. When the charges on through traffic are so extremely low as they are now, when the railroads are carrying grain from Chicago to New York for 12 cents per 100 pounds, which is below the cost of transportation, the local charges appear comparatively high; they are not high in themselves, considering the cost of the service, but they are relatively high, and this often constitutes unjust discrimination. The remedy, however, lies in preventing the unreasonably low through charges. How they can be prevented is one of the questions which I hope your committee will take into consideration. Any measures that could be adopted to prevent railroad rate wars, which are the cause of these low charges, would remedy the complaint which now exists in relation to local charges, and avoid the unjust discrimination which it is the object of any proposed legislation to obviate. The local charges can always be properly regulated when proper through tariffs are maintained; hence the first object should be to secure the maintenance of properly adjusted through tariffs that are reasonable to the public and to the railroads. This done there will be no difficulty in adjusting local tariffs and preventing unjust discrimination. It is a rule generally adopted by all railroads to properly adjust local tariffs to the through tariffs when the latter are reasonable and fairly remunerative. For example, the tariffs of the Pennsylvania Railroad are so arranged that no higher charge is made from any station east of Pittsburgh to Philadelphia than from Pittsburgh to Philadelphia, nor from any station this side of Chicago than from Chicago. That is a rule generally adopted by all roads.

Senator HARRIS. Never to charge more for a short than for a long distance?

Mr. FINK. I do not say "never," because there are conditions under which this may be done without any injustice; but it is the general rule, in making tariffs, that whenever a proper through tariff is established, under which the railroads can live, they regulate all the local charges so as not to cause any unjust discrimination between the through and local rates; but when the railroads get into a fight, as some of them are at present, and when they charge 10 or 12 cents a hundred on grain from Chicago to New York, less than the cost of transportation, not because such low rates are a commercial necessity, but simply because the companies cannot control the maintenance of reasonable rates on account of dissension among themselves, then the local rates cannot be graded down to suit those through rates, and unjust discrimination between local and through rates is the unavoidable result.

The CHAIRMAN. You say the local rates cannot be graded down?

Mr. FINK. They can be, of course; but the result would be that the roads would very soon have to stop running, because they would not make enough money to pay their operating expenses; and it is in this way that the great difficulty arises, which has given just cause to much complaint, that in times of war between the railroads, when proper, well-regulated tariffs are not maintained, the local interests suffer and unjust discrimination exists. The remedy, however, is not to put down

the local rates but to put up the through rates to a proper basis which would be just and reasonable both to the public and the railroads.

The CHAIRMAN. Do you mean by the Government?

Mr. FINK. That is the question. There can be no doubt that there must be some control exercised over the railroad tariffs that will prevent unjust discrimination. If the railroads cannot govern themselves, then I think it is proper that the Government should step in and give aid to the railroads. In that case the question would be whether the Government can give any aid at all, and what that aid should be. That it would be better for the railroads if they could control themselves, without any Government interference, is evident. I will refer hereafter to the efforts which have been made and are being made by the railroad companies to do so. They have been only partially successful so far, but it is possible that in the course of time they may solve the question without the aid and assistance or interference of the Government. If there be a reasonable probability of this, and the sacrifices and injuries inflicted in the mean time are not too great and will be patiently borne by the people, then it may be well to let them alone. It is a matter of judgment which is the best course to pursue, and your committee will, I hope, arrive at a proper conclusion upon this important question.

MAXIMUM AND MINIMUM RATES.

The CHAIRMAN. As to maximum and minimum rates being established by Congress, do you believe that can be done?

Mr. FINK. I think the plan of endeavoring to regulate railroad charges by the establishment of maximum rates is entirely impracticable. This is made clear not only by past experience, but simply by a knowledge of the nature of the case. To demonstrate this I will only mention this one fact: In the State of Tennessee, as Senator Harris will remember, there is a law that 7 cents per ton per mile shall be the maximum rate. Yet the railroads have never dreamed—or, I should say, have never been able to charge that much. They could not possibly do it, as their charges are limited by other considerations than the law. At present the average rate is, perhaps, not more than 1 cent per ton per mile, showing how perfectly useless the limitation to a maximum rate has become, if it ever was of any service. You cannot fix a maximum rate for a great number of roads without allowing a great deal of margin to cover all possible contingencies.

The CHAIRMAN. You have to make the maximum very high?

Mr. FINK. You have to make it very high, so as to cover all the various cases that may arise. There is a good deal of difference in the cost of transportation on a road that runs through a country which affords very little traffic and a road, like the New York Central, that run through a country which affords a great deal of traffic. For example, the trunk lines last year did not charge more than from seven-tenths to eight-tenths cent a ton a mile. Some roads could not live on that, and 2 or 3 cents a ton a mile perhaps would not be an unreasonable charge to be made by them. Every road must be dealt with on its own merits. It would be utterly impossible to fix a maximum rate under which some of the roads could work, and that would act at the same time as a restriction upon the great majority of roads.

The CHAIRMAN. If it would do no good to fix a maximum rate, do you think Congress ought to fix a minimum?

Mr. FINK. That is a question that has been suggested by the present state of affairs, when some of the railroads are obliged to do business for less than cost.

I am not prepared to say whether it is practicable or possible to pass a law fixing minimum rates, although it would seem to be desirable. For illustration take the case of the New York, West Shore and Buffalo Railway Company. That company charges between Buffalo and New York less than 1 cent a mile per passenger. It is a well-established fact that it is impossible to perform that service at that rate and pay operating expenses. That company is itself aware of this fact, as it shows a deficit of \$200,000 in the last three months of the year 1884 in meeting the mere cost of operation. The object of this measure in this case is to inflict losses upon the New York Central Railroad that might induce that company to yield a certain portion of its traffic to the new competitor. In a fight of this nature between two competing roads, for the purpose of obtaining or retaining traffic, there are involved not only the two roads themselves, but a large part of the whole railroad system of the country. Such is the nature of the transportation business that the tariff established by one or two roads becomes the tariff of a large section of the country, and if that tariff is purposely made so as not to cover the cost of operation, a large number of roads, from the mere action of these two roads, may, if such strife is long continued, be involved in bankruptcy; but, apart from the injury inflicted upon many innocent parties who have no direct interest in the fight between two roads, it becomes impossible to observe just and reasonable tariffs, and unjust discrimination between shippers and localities is the result. Here, then, is a case in point where it would be desirable if a law could be passed establishing minimum charges that would prevent such strife between railroad companies, carried on for mere private and selfish purposes, but in which the public interests are so seriously involved. It would be well if a remedy could be applied, but it is impossible to say what that remedy should be. Under the system under which the railroads of this country have been created, and under our present laws, each road has a right to establish its own tariffs, no matter how low they may be, and it has a right to protect itself against the encroachments of competitors according to its own judgment, no matter what the result may be upon other roads or upon public interests. This is the fault of the system under which the railroads of this country are created and operated, and I suppose it is one of the objects of your committee to endeavor to suggest legislative remedies. I have, therefore, taken the liberty of calling your attention to a specific case, as any proposed legislation for the purpose of preventing unjust discrimination must cover just such cases as these; they are the source of unjust discrimination, and in providing for such cases you will find the greatest difficulty.

COST OF SERVICE.

Senator HARRIS. In an act prohibiting a railroad from doing business for less than the cost of doing it, what would you hold to be the cost?

Mr. FINK. That question I was going to touch upon, because the whole difficulty comes in there. In principle it would be well if such a law could be passed; but when you attempt to determine the minimum cost it becomes a very intricate question, as much so as to fix a maximum rate. The cost of service is different on different roads; even on the same road the cost of certain services may greatly differ. If you were, for example, to fix the minimum cost for carrying passengers at 1½ cents per mile, it would conflict with tariffs that are now established on suburban traffic when that special service may be performed for less. It would be almost impossible to establish a minimum rate covering all cases,

based upon the cost of service; and perhaps it would be still more difficult to determine what party should have the right to determine such minimum rate.

Senator HARRIS. The point about which I wanted your opinion was particularly this: Do you regard the mere running expenses as constituting the cost of doing the business, or do you include interest as well upon the capital invested in the construction of the road and the equipment?

Mr. FINK. I think it would be a great advance if you could pass a law that would restrict a road not to do business, intentionally for the purpose of destroying another road, for less than the mere operating expenses, to say nothing at all about interest on the capital invested.

While it may seem desirable that a law should be passed fixing minimum charges, I think, upon further reflection, it would be entirely impracticable to do so. I, for one, do not recommend it. This is a similar case to a great many other cases where it seems desirable to correct certain evils by legislation; the principle on which the law is to be based is clear and correct, but when we come to the practical application of those principles we meet with many complications and difficulties which it is impossible to overcome by legislative action.

Senator PLATT. Before you go further I would like to ask a question. You said that you thought the rate of 12 cents a hundred for grain from Chicago to New York was less than the cost. What element do you take into consideration in determining the cost of carrying grain? Of course there are a great many elements, but what are the main elements which enter into the cost when you make that statement?

Mr. FINK. There are a great many elements entering into the cost of transportation. They may be subdivided in five main classes:

First. The movement expenses—the actual cost of moving the freight or passengers, wages of train-men—conductors, brakemen, engineers, firemen; then car repairs, locomotive repairs, fuel, water, and wear of rails. These constitute the expenses incurred in the mere movement of the freight or passengers.

Second. The station expenses—loading and unloading freight, depot accommodations for passengers and freight, clerks manifesting freight, ticket agents, &c.

Third. Maintenance of road-bed, bridges, buildings, &c.

Fourth. General expenses of administration.

Fifth. Interest on investment.

Now, when the question arises, What is the lowest cost at which a fully equipped and organized railroad can move a certain amount of freight? the mere cost of moving and handling the freight has only to be considered, without charging to that particular service any part of such other expenses which may have to be incurred whether this additional freight is carried or not, nor charging it with any interest on the investment. This would be the lowest cost at which freight may be carried by a railroad without losing any money, simply reimbursing it for the mere outlay of moving and handling the freight. But of course a railroad could not carry all its traffic at such a low rate, as that would not reimburse it for the general expense or for the maintenance of the roadway, or allow it any interest on the investment. It may sometimes be advisable for a railroad company to take a certain class of business which cannot be moved except at the mere cost of moving the freight, although it may make no money; it can take this business at less than the full cost, in order to foster thereby trade and industries that otherwise could not be carried on; and in such cases they may rely for com-

pensation upon indirect advantages that may result from the building up of such trade and industries.

I mention this to explain the great variation that may be made in railroad charges for similar services according to the circumstances of the case. On one class of freights a railroad may have to be satisfied with a compensation that merely covers the cost of moving the freight, while on other classes it may be able, in fact is obliged, if the road is to be run at all, to make a charge that will not only reimburse the company for the movement expenses, but also for the general expenses and interest on the capital invested.

The item of interest constitutes about 40 per cent. of the total average charges made by the railroad companies at this time; that is to say, of the charges the railroad companies now make to the public, 40 per cent. are applicable to the payment of the interest, which at the present time amounts to about $4\frac{1}{2}$ per cent. on the bonds and stock representing the capital invested in the railroads. It may be estimated that upon an average of \$1 earned by all the roads in the United States for a certain service, 40 cents are required to pay $4\frac{1}{2}$ per cent. interest on the bonds and stock, 35 cents to pay the mere movement expenses above referred to, and, say, 25 cents to pay for the maintenance of the roadway and the general expenses of the organization.

It appears, therefore, that railroad companies can vary their charges for similar services within very wide limits, according to the circumstances of the case. It may sometimes be in the interest of the railroad companies, as well as in the interest of trade, to move freight at the mere cost of moving the same, without paying any part of the general expenses or the interest on the investment, and then, under more favorable circumstances, a railroad may be able to charge not only the movement expenses, but the full proportion of the general expenses and interest.

It is a matter of judgment and experience to make tariffs under which the commerce of the country can be fully developed and reasonable compensation secured to the carriers. This constitutes the profession of railroad traffic managers and is a work that never can be performed by legislative bodies.

The foregoing analysis of the elements of the cost of railroad transportation will also prove the fallacy of the popular doctrine of making railroad tariffs on a pro-rata basis. The expenses of a fully equipped road which vary with the work performed, as I have before shown, are the movement expenses; the general expenses and interest are fixed amounts which have to be incurred whether any work is done or not; so that really, if my estimate is correct (and I think it is nearly so, taking an average of all roads in the country—of course it varies with different roads), the charges which should be based upon the mileage constitute only 35 per cent. of the total average charge. The remainder necessarily has to be assessed arbitrarily, in accordance with what the service is worth. It may be proper to haul freight between points where there is competition at a rate of 35 cents per 100 pounds, without making any assessment for general expenses or interest, and then again it may be proper to charge \$1 per 100 pounds, making a full assessment for general expenses and interest.

Senator PLATT. Is there any rule for charging to any particular train of cars from Chicago to New York its proportion of the general expenses of the road? Would not that have to be an arbitrary matter rather?

Mr. FINK. There can be no rule by which either the general expense of a road, or the interest, can be charged to any particular service.

While this might be desirable, yet the charges made by railroads are not based on the cost of the work, but are restricted and controlled by conditions not under their control. There is only this general rule, or principle rather, that guides railroad managers, namely: that under no circumstances should they carry freight for less than the movement expenses and the cost of handling the freight, but the general expenses, as well as the interest charges, should be assessed as it may be possible and fair, so that at the end of the year the average of all the charges made will reimburse the movement expenses, the general expenses, and the interest on the investment.

Senator HARRIS. Could not a pretty accurate approximation be reached upon this basis: Say it takes 24 hours to run one of those trains from Chicago to New York, and say there are ten trains upon the road during that 24 hours that the road is being used. There are 365 times 24 hours in the year. Then could you not approximate the probable amount or proportion of that general cost by taking one-tenth of that 365th part of the general expenses?

Mr. FINK. Oh, yes; that would be a proper way to do, and that rule is generally adopted, only it is simplified by making the assessment of general expenses in accordance with the number of train miles run over the road. For example, during a year a certain number of miles are run by the passenger and freight trains; the general expenses and interest are assessed between the passenger and freight traffic according to the number of miles run by each class of trains. This is an approximation, and I think it is as nearly a correct way of assessing the general expenses upon special services performed as can be arrived at. But while this knowledge of the cost of each service so assessed is desirable, it is of little practical use in regulating railroad charges or establishing railroad tariffs. The charges are regulated by other considerations than the cost of the work to the railroads. They are regulated by the value of the service to the parties for whom it is performed. If any article of commerce is to be moved between two points, the difference in the market value at the two points, which is generally fixed by competition, is all that can be charged for the movement of such article. If it were attempted to charge more the article could not be moved. For example, the price of grain is generally regulated in the Liverpool market, in competition with grain from East India and the Black Sea, and the railroads and ocean steamers must carry the grain between the West and Liverpool for the difference between the price which the farmer in the West demands, and on which he can make a reasonable profit, and the price at which it can be sold in Liverpool. Now, it may so happen, as it does happen, that the railroad companies cannot charge upon the grain the full cost of moving it and assess it with a proportion of the general expenses and interest, and in this case they must carry it for less than the average total cost, including all expenses. It follows from this that on other classes of freight the railroad companies must assess a greater proportion of the general expenses and interest, when that is admissible, in order to compensate the carriers at the end of the year for all the work they have done. From this arises the necessity for classifying freight according to the transportation charges it can bear, making higher charges on some classes than the average cost and lower on others. It is in this way that the interests of the public are best served, the trade and resources of the country fully developed; and for this reason pro-rata charges, based on weight and distance alone, are impossible. It is a very difficult and complicated work to establish proper transportation tariffs. It requires a great deal of knowledge

and special training, and even with this it cannot be expected that perfection can be reached.

Senator PLATT. When you suggest that 12 cents a hundred on grain from Chicago is less than the cost, what do you mean? Is it less than it costs to haul a particular train of cars from Chicago to New York, or less than the cost counting all the expenses of the road?

Mr. FINK. It is less than the actual cost of hauling the cars. The average cost on the roads between here and Chicago which are operated the cheapest is about 24 cents per 100 pounds, which includes the general expenses but does not allow anything for interest. Some classes of freight, such as grain, can be hauled for somewhat less than the average cost, because the average cost includes the more expensive local business; yet I do not think grain can be hauled for much less than about 20 cents, including general expenses; and the mere cost of movement cannot be less than 15 cents. The cost of returning empty cars must be charged to this service. So the lowest actual cost is not reimbursed by a charge of 12 cents per 100 pounds.

Senator PLATT. Then it follows that they are losing money on the grain freight, and must necessarily recoup that loss from the other freight or from local freight?

Mr. FINK. They must either recoup it or absolutely lose it.

Senator PLATT. I mean recoup it in order to live.

Mr. FINK. I do not know how they can recoup it. If they had the power to recoup it they would. They have to reduce even their local charges on account of the lower through rates. This is an additional loss.

EFFECT OF RAILROAD WARS.

Senator PLATT. That brings up the question, what remedy there is for such a condition of things.

Mr. FINK. If these railroad wars, during which charges are made unnecessarily low, below the cost of the mere movement expenses, were only spasmodic and did not continue long, the railroads might be able to recoup themselves to some extent when the wars cease. But if continued for a great length of time a very serious state of affairs will result. The first step railroad companies take when they are actually losing money is to cut down the wages of employes. Then that is sometimes followed—it has been in past experience—by riots and bloodshed. We may have to pass through the same experience again. Besides, during these war times, when there are no tariffs, unjust discrimination prevails and transportation charges are constantly fluctuating, thus creating great dissatisfaction among the shippers. The shippers do not want these extremely low rates. They would be better served with reasonable, steady, and even rates. Yet that is impossible when there is a state of war like the present. I do not wish to be misunderstood; I do not complain of low rates when the commercial necessities require low rates. At present, under any circumstances, rates would be low. I do not believe they could be made higher than 20 cents per 100 pounds on grain from Chicago to New York, which is the bare cost of moving grain, including the general expenses, but without any profit to the roads. Yet the roads carry grain for 12 cents and less, for which there is not the least necessity. This low rate does not at all have the effect of moving more grain; it simply results from the great difficulty in carrying out agreements between so many railroads, which they are ready enough to make but not to keep. If you wish to prevent unjust dis-

crimination, you must stop rate wars by forcing the roads to adhere to their agreed tariffs, if such tariffs are reasonable and proper.

The CHAIRMAN. How long has this condition of affairs that you speak of existed among the trunk lines? I suppose you refer to those?

Mr. FINK. Yes, to the roads east of the Mississippi River. It is about a year since the agreed tariffs on east-bound traffic have not been observed—I mean since each road has felt at liberty to make its own tariffs, regardless of the agreed tariffs—and this has been brought about principally by the opening of new routes, because they would not agree to any fixed tariff.

The CHAIRMAN. Within the last year or two?

Mr. FINK. Within the last year and a half, perhaps. But during this time there have been periods when tariffs were better maintained than at others. Now, the question is, what is the remedy?

Senator PLATT. It would seem as though mutual self-interest would stop this state of things after a while.

Mr. FINK. Yes, it would seem so; but unfortunately it does not. Mutual interest is not strong enough. There are too many conflicting interests, and they are stronger. Every railroad manager recognizes that the best plan is to agree upon a proper tariff and strictly adhere to it. Yet there are always some among a number of railroad managers—we have to deal with some forty or fifty roads in the territory mentioned—who disregard agreed tariffs and resort to secret cutting of rates and paying rebates, in the hope that they can secure advantages over their competitors, although experience has sufficiently shown that these advantages are only temporary, while their action finally results in rate wars, inflicting immeasurably greater losses than any temporary advantage that might possibly be gained. And when one company resorts to these practices all have to follow. Railroad tariffs are like houses built of cards; if you remove one card, the whole house falls to pieces. The intricate relations of these tariffs one upon the other is like that. They cannot be tampered with. This is well understood, and yet it is constantly done and then results in war. For example, when some road in Chicago cuts the grain rate but 1 cent, it is felt at Indianapolis. The Indianapolis roads must follow at once. So it is all over the country. Whenever there is the least deviation from the tariff anywhere, it has to be followed everywhere. This makes the maintenance of properly adjusted tariff rates so very difficult—almost unmanageable by the mere voluntary agreements of railroad companies.

Senator PLATT. Before you go to the question of what the remedy is, let me ask this: Who gets the benefit of this? Does the farmer get the benefit of it on his farm?

Mr. FINK. It is very difficult to trace that. In most instances the middlemen and speculators get it. When there is a long-settled reduction in rates, I suppose the farmer gets the advantage in a measure. When rates are reduced from Chicago to New York, the effect generally is that the parties who hold the grain in the West—the speculators and dealers in grain—get the advantage of the cut in the rate; but the farmer, if the reduced rates last long enough, gets some of the benefit. The holders of grain in the Eastern markets who paid the higher charges are of course the losers by sudden reductions. But of a great many other classes of freight it can be shown that these reductions do not benefit the consumer, but only benefit the middlemen. The transportation charges are so small, compared with the cost of a great many articles, that the benefit of reductions does not reach the consumer, but is absorbed by the middlemen. These reductions may amount to a great

deal in the aggregate to the merchants, but are so small when distributed among so many consumers that they do not reach the consumer; they only increase the profits of the middlemen.

Senator HARRIS. About how long do these wars of cutting rates last?

Mr. FINK. Some rate wars last only a short time—a week or several weeks. A short time ago a war broke out between the northwestern roads which lasted only two or three weeks. It arose from some question that might have been settled as well without a war. Some railroad wars have lasted a year and longer. They generally last until all the roads are exhausted, when finally they come to the conclusion that they can go on no longer. They hardly feel the pressure and necessity for settling their difficulties until their treasuries are empty.

The CHAIRMAN. Not until they run out of money?

Mr. FINK. Then it strikes them that they ought to have had more sense, and then they come together again, more inclined to come to terms. Railroad rate wars arise from the dissension between so many independent competing roads as to the tariffs and the relative amount of traffic each road wants to secure. The wars do not settle any of these questions, but simply make the contestants more willing to treat with each other and settle their differences. This might as well be done, if reason prevail, first as last.

OBJECT OF TRUNK-LINE ASSOCIATION.

The CHAIRMAN. It has been your business, has it not, to try to prevent these wars?

Mr. FINK. Yes.

The CHAIRMAN. And to fix the division of carrying and the division of profits, and all those matters, between the trunk lines?

Mr. FINK. Yes; that has been the object of the association called the Joint Executive Committee, of which I am the chairman, and of other similar associations that have been formed in different parts of the country. These associations are formed by a number of competing roads for the purpose of establishing proper tariffs and strictly maintaining them. The object of these associations is precisely the same as that which you desire to attain by Congressional legislation. The operations of these associations and their absolute necessity are not fully understood by the public. Neither is it fully understood that under no circumstances do these associations enable the railroads to make unreasonable charges, because, as I have explained before, railroad tariffs are regulated entirely by other considerations than the mere will of the managers. There is no great difficulty in agreeing upon tariffs, although very complicated questions sometimes arise. For example, the question of the adjustment of rates from common points in the West to the seaboard has given rise to very exhaustive railroad wars, solely for the reason that no agreement could be reached as to what should be the relative charges from points in the West to, say, Baltimore, Philadelphia, New York, and Boston. Finally that question was settled by arbitration, as it might have been settled at first. The joint executive committee has now been in existence for some seven years, and its object is to facilitate agreements between the railroad companies upon all questions which might lead to railroad wars, and to settle them by mutual agreement, or, failing agreement, by arbitration. A great many difficulties have been settled, and railroad wars and unjust discriminations have been less frequent than before, while, at the same time, no unreasonable charges have been made. The history of

the association from its inception will fully sustain the correctness of this statement. Rules and regulations have been adopted in regard to the establishment of tariffs, which are recognized as correct and just. The tariff question itself does not present any serious difficulty within the territory in which the roads represented on the joint executive committee operate. From time to time new questions have arisen, but they have generally been settled by agreement. There is, therefore, no difficulty in arranging proper tariffs; the difficulty is in enforcing the same. The main rule that prevails in this section of the country for making tariffs is a very simple one, and it has been a satisfactory one. The rates between Chicago and New York, which are generally determined by the competing water-routes, are taken as the basis of the tariff. When that is established, a table which has been prepared, based upon the relative distances of other points to points of destination of the freight, gives the corresponding rate from other cities in the territory east of the Mississippi River and north of the Ohio River.

The CHAIRMAN. You mean all the stations along all the roads?

Mr. FINK. I mean from all the important competitive points.

The CHAIRMAN. Can you furnish that table to us?

Mr. FINK. Yes, sir. Here is the percentage table agreed to. This is the result of the efforts of these competing roads during the last ten years to establish a proper tariff, to avoid unjust discrimination between the various localities in the West. The rates from the competing points to common points in the East, say New York, are in proportion to the distance from Chicago to New York. For example, Cairo, Ill., is 120 per cent. of Chicago. It is 1,200 miles from New York, while Chicago is about 1,000, in round numbers. Whenever the rate from Chicago to New York has been established, the rate from Cairo to New York is 20 per cent. higher. Take Indianapolis for another example; its distance from New York is 93 per cent. of the distance from Chicago to New York. Whenever the rate is reduced from Chicago to New York from 25 cents to 20 cents per 100 pounds, the rate from Indianapolis is at once reduced to 93 per cent of the 20 cent rate, or 18½ cents.

The CHAIRMAN. Recognizing the distance as that much less?

Mr. FINK. The relative distance between points between which freight is to be carried is made the basis of the tariff—substantially so. There are sometimes a great many routes of different lengths between common points, and rates may sometimes be based upon the long, sometimes on the short, and sometimes on the average length of the several routes.

The CHAIRMAN. While you are regulating freights on a road from here to Chicago, for instance, you begin at Chicago to charge so much from there to New York or from New York to Chicago; and you do the same thing as to every other point where there is another road that comes this way? You let each one of the roads cut and carve at every station where there are not two roads, do you?

Mr. FINK. No; there are certain rules upon which tariffs are made from local points. After a rate has been established from a competing point, say from Indianapolis, it being 93 per cent. of Chicago, then the rate from a point beyond Indianapolis (if it is not a competing point, but a local point on any one of the various roads that run to Indianapolis) is added to the through rate. The local rate, which is generally for short distances, can only be charged to the point where the freight reaches the first competing point. The roads can never do more than that. And here I would call your attention to this fact: that high local rates can only be made for short distances. For example, I suppose in Illinois there is no place more than 10 or 20 miles from some

competing railway station. In such a case the local rates could only be made high for 20 miles. As soon as the freight strikes a competing point, and it is intended to go beyond that point, it gets the advantage of whatever low rates may exist from that point. The local shipper has the full advantage of competing rates.

The CHAIRMAN. Why do you not make the tariffs as though there were no competing points? In other words, if you charge so much from Chicago to New York, and there is a station 10 miles this side which is not a competing point at all, why do you not say that the charge from that point to New York shall be so much less, and control that charge as well.

Mr. FINK. It is a rule that this freight should not pay more than from Chicago, but you can understand that it may cost more to take freight from a point 10 miles east of Chicago than from Chicago. But, nevertheless, the roads generally follow the rule not to charge more.

The CHAIRMAN. That is, the rule of the pool, as you may call it?

Mr. FINK. That is, the rule of each of the several roads; although it can be shown that it may cost more to pick up business at local stations and haul it for short distances than it costs to take it from points where there is a great concentration of traffic and haul it for longer distances. I have already explained that distance is not the only element in the cost of transportation; and while there are some very good reasons why the railroads should charge more, yet they generally have found it to their interest not to do so except where it is absolutely necessary for their existence. It is impossible to explain to a local shipper why they should be charged more for the shorter haul than for the longer haul. It can be very easily shown that it is perfectly right to do so. But you cannot make the local shippers understand it; and in order to avoid the friction I think the roads generally give up that point and avoid charging more for short hauls on their local traffic than for long hauls.

Senator PLATT. But they keep charging the same rate as they come on nearer to New York.

Mr. FINK. Not exactly. They may keep the rate proportionately higher; that is, they do not grade it down exactly according to distance. Pittsburgh is a competing point, and its charges are fixed on the pro rata system again. As you leave Chicago the local rates have to be graded down until they meet the Pittsburgh rate. They cannot keep up the Chicago rates all the way to Pittsburgh. They shade the rates down gradually.

Senator HARRIS. When you reach a competing point you pro rate?

Mr. FINK. The rates from competing points are regulated by the percentage table, by the distances. It costs no more to ship by rail per mile of road from Indianapolis than it costs from Chicago. This is the effect of legitimate competition, which I think is not appreciated and understood by gentlemen who are not familiar with the making of tariffs, and who think that the railroads could shield themselves from this legitimate competition by pooling. The laws of competition in making tariffs have unrestricted sway, pool or no pool, and are the surest safeguards against extortionate rates. Take Indianapolis, for example, which is an inland town, and has no canal or water-route anywhere near it. Yet the Indianapolis railroads, on account of competition with the Chicago roads and with the lake and canal, have to do the work from Indianapolis for the same compensation per ton per mile that the Chicago roads have to do it, although the Chicago roads are right on the lake and have directly to compete with the lake and with the canal.

The CHAIRMAN. Why is that? Is it because of the competition with the Chicago roads?

Mr. FINK. Because of the competition with the Chicago roads. For example, if the Indianapolis roads would hold their rate higher per mile, then the tendency would be for all the grain to avoid Indianapolis and to go to Chicago.

The CHAIRMAN. Starting from there?

Mr. FINK. It would go from all points that could reach Chicago as well as Indianapolis. The grain would go where it could get the lowest transportation. If the Indianapolis roads kept the rate too high, the roads that ran from Indianapolis to Chicago would at once go into the business and carry all the freight to Chicago, and let the Chicago roads carry it east. So it is the competition between these various roads that regulates the rates from Indianapolis and keeps them down to the lowest rates made from Chicago per mile of haul, although it does not appear on the surface, to the casual observer, that there is any competition at all after there is an agreement by competing roads upon a fixed tariff and a pool has been made. The competition is recognized before the tariff is established. The tariff is practically a competitive tariff; the pool is merely for the purpose of maintaining the competitive tariff. It is a popular idea that competition is destroyed by a pool. This is a fallacy.

Senator PLATT. What determines the fact that a given place is a competing point?

Mr. FINK. Any place that has more than one road that can carry traffic to the same points. If a country is cut up like it is in Indiana and Ohio with so many roads, every station becomes a competing point, although it may have only one road. A great many farmers are so located between two roads that they can haul their products as cheaply to one road as the other, so that roads, although they do not come together at any point, may become competing roads. In States where there are so many roads it is almost impossible to maintain any tariff, on account of so much competition. That is one of our difficulties.

The CHAIRMAN. Do you think the action of the road on this state of facts is right? For instance, I know a case near my own town where a farmer had two farms, one on a road connecting with the Baltimore and Ohio road and another on a branch of the Central road, each about 25 miles from Springfield, where I live. The farmer had a lot of corn on each farm and he wanted to sell it about the time it was put up to 41 or 42 cents. An agent came along and said to him, "I will give you 41 cents for the corn out here on the Central road, because," he said "I can ship it down to Springfield and ship it over the Ohio road to Baltimore or somewhere east." The farmer sold him that corn. Then the farmer said, "I have got some corn down here about 25 miles off on the Baltimore and Ohio road that is much nearer to Baltimore than is Springfield, and I would like to sell you that." The agent said, "I cannot buy that and give you over 35 cents." The farmer would not sell it at that price. Now, this farmer asked one of the directors of the Baltimore and Ohio road why that was? He said, "Why, they could make arrangements with the branch of the Illinois Central to bring your corn down to Springfield and take it on their road, which would be so much gain, but the corn down on our road is our meat anyhow."

Mr. FINK. That is certainly a case of unjust discrimination, and I am glad you mentioned it, as it shows exactly the cause of unjust discrimination and the way it should be remedied. Springfield being a competing point, the Baltimore and Ohio Railroad, no doubt, reduced the es-

established and agreed rate at that point in order to take this business away from some other road. That is what is called competition, and it is this sort of competition which creates unjust discrimination. The remedy is, after a proper tariff has been established and agreed upon between competing roads at Springfield these roads should be made to adhere to it strictly. If that had been done in this case your friend would have had no cause for complaint. As long as you let roads fight each other you cannot expect to maintain uniform and properly adjusted tariffs, and you will have to submit to unjust discriminations. There is no other alternative.

Senator PLATT. When was that table prepared?

Mr. FINK. The last revision of this table was made June 1, 1883. It is revised from time to time as new places are added to it.

Senator PLATT. Since it has been established, during what portion of the time has it been practically and substantially maintained?

Mr. FINK. I may say that during no time have the established tariffs been absolutely maintained. There are always more or less concessions in rates made to individual shippers, but the relative rates from different localities, as established by the table, have been substantially observed. Deviations from it are only caused by concessions to individual shippers.

The CHAIRMAN. Is that tariff system that you speak of the result of this organization here of which you are the head?

Mr. FINK. No; the general rules of making tariffs on this basis were already in force before the organization existed, although changes have been made from time to time. The organization has for its main object to establish tariffs and to enforce the same.

The CHAIRMAN. That was one of the objects of the pooling system?

Mr. FINK. Yes; to enforce established and agreed tariffs.

The CHAIRMAN. But you have not succeeded?

Mr. FINK. There has been no absolute success, and it is not likely that there ever will be so long as these associations are only voluntary and it is not obligatory to carry out the rules of the associations; but a great deal of good has already been accomplished even by these voluntary associations. The Southern Railway and Steamship Association, for example, has been in existence for ten years, and has fully accomplished the object for which it was created. It was the first complete organization of this kind. Other associations in the West have been successfully carried on for a number of years, but they embrace fewer roads than are embraced in the joint executive committee, and the territory in which they operate is more limited and more strictly defined. The difficulty of establishing and maintaining tariffs increases with the number of companies between whom the agreements have to be made. There are forty or fifty roads, members of the joint executive committee, operated east of the Mississippi and north of the Ohio Rivers, any one of which can disarrange the best constructed tariff. Absolute success in maintaining tariffs by voluntary agreements between so many roads, under such complicated conditions, can hardly be expected, although there have been periods since the establishment of the joint executive committee when there has been a nearer approach to the strict maintenance of established tariffs, and for a longer continuous period, than there ever were before its formation. The operations of the joint executive committee commenced in June, 1879. Tariffs were fairly maintained from that time until June, 1881, during an unprecedented period of two years. Then there came an interruption—a rate war—until February, 1882, after which the work went on successfully until

the early part of 1884. Since that time there has been more or less friction, brought about, principally, by the opening of new roads. Looking over the past experience, I consider that great progress has been made by the railroad companies during the last ten years in dealing with this difficult and extremely complicated problem. They may be able to finally work it out without any aid from the Government. I can only say that if the Government desires to take any action at all it can only be taken in the direction indicated by the efforts of the railroad companies themselves; that is, by legalizing the associations formed by them for the purpose of establishing and maintaining proper tariffs.

Senator HARRIS. Down to this time tariffs have been made by the various transportation companies?

Mr. FINK. Yes; that is the practice with transportation companies all over the world.

Senator HARRIS. If tariffs are to be made, the common carrier is interested in them upon the one side and the general public is interested in them upon the other side. If they are to be legalized should not both elements be represented in the making of them?

Mr. FINK. I think so; yes. There should be supervision, to see that tariffs are proper, reasonable, and just. The Government should not legalize an organization that would make unjust or unreasonable tariffs.

Senator HARRIS. How would you suggest that the general public should be represented in the making of a tariff which, when made, is to be legalized and enforced?

Mr. FINK. The general public is already fully represented and consulted in making tariffs. This is not generally understood by the public, who think that tariffs are arbitrarily made by railroad companies. This is not the case. The railroad officers are in constant contact with the public, through thousands of agencies, and they fully understand the views of almost every shipper, and endeavor to meet those views as far as possible. When a tariff is published, and it is not satisfactory to any shipper, complaint and application for changes are made at once, and such applications are fully and fairly considered and correction made if necessary. That is the practical way in which tariffs are made by railroad companies. They are built up by degrees with the help of the public, in this way, and, as a rule, the tariffs are satisfactory to the shippers. There can be no better way of making tariffs. Government officers in Washington who have no intercourse with the public, as the railroad companies have through their agencies, cannot be expected to establish tariffs for 125,000 miles of road. Supposing that there is a station for every 6 miles of roads there would be about 20,000 stations. If a tariff was to be made from each one of these 20,000 stations to the other 19,999 stations, what a work this would be? Of course, I do not wish to intimate that each station in the country would have business connection with every other station; but merely wish to give a general idea of how complicated a task it would be for the Government to establish tariffs for the railroad system of this country. The officers of the railroad companies are in the best position to make tariffs. It is their life study. It is a profession, the same as that of a lawyer or of a statesman. It requires the experience of years and a thorough knowledge of a great many facts, and a knowledge of all the local conditions on each road bearing on the subject that can only be obtained by practical experience in contact with the shippers. Moreover, these officers are mere agents; they are really disinterested parties, as much as Gov-

ernment officers ; they act as umpire between the public and railroad companies. They have no selfish motive in being unjust to the public.

These are some of the reasons why I advocate that the making of tariffs should remain, as heretofore, in the hands of the railroad companies, and that the Government should not interfere with it. But, in case the Government is called upon to legalize and enforce tariffs, there can be no objection to having competent authority appointed by the Government to pass judgment upon the justice and reasonableness of the tariffs to be legalized. If there be any reasonable objections raised, then there is no doubt in my mind that the proper modifications could be arranged.

Senator HARRIS. Conceding the superior intelligence and expert knowledge, if I may use that term, of the general subject, to the railroad men, if the railroad men alone are to make these tariffs, then the general public, which is interested in antagonism to the interests of the railroad men, because they are conflicting interests——

Mr. FINK. Absolutely conflicting. One party wants to get the work done for the least money, and the other wants to get the most for it.

Senator HARRIS. Then the general public are not heard in respect to the tariff, except by the expression of public opinion after the tariff has been made, and railroad people respect those expressions of public sentiment only so far as they choose. Is not that so?

Mr. FINK. No; so far as they are proper and just —

Senator HARRIS. But the party in interest on one side makes himself a judge.

Mr. FINK. Should the party who renders the services not finally be the judge? He furnishes the means and takes the risk. He ought to be allowed to control his own property. The party to whom the service is rendered should of course be heard and consulted, but should not be allowed to make the final decision. The final decision in regard to tariffs should be with the parties who render the service, subject, of course, to the laws of the country, which provide that tariffs shall be reasonable. If it can be proved that tariffs are extortionate and unreasonable redress can be had under the law. The power to make tariffs should not be given to the public nor to the representatives of the public. The public is the purchaser and the railroad company is the seller. The final decision, however, should be a matter of bargain between the two parties, as it is in all other commercial transactions between purchaser and seller, and this practically is the case in regard to railroad tariffs, although it does not appear so on the surface to parties who have no practical experience in the matter. The fact is that shippers are constantly bargaining with the railroads. Considering the reductions that have been made in the tariffs during the last ten years, it must be admitted that the shippers have had the best of the bargain. Those who are not brought in direct contact with shippers and railroad companies, those who only know that the railroads establish fixed tariffs and attempt to adhere to them, do not understand that those *fixed* tariffs are practically the result of bargains with the shippers, and that all the legitimate elements of competition have been considered and have had their influence upon them; but because they are *fixed* and the railroad companies refuse to make a separate bargain with every shipper, as they ought to refuse or ought to be compelled by law to refuse, that gives the result the appearance of arbitrary action. The general public, not familiar with the practical operation, are apt to look upon transportation companies as monopolies. There is no business in the world that is so thoroughly regulated by competition as the transportation

business, not only by competition between the roads, but by the competition in every trade. The railroad companies are in this difficult position before the country. When they adhere to fixed tariffs and refuse to make concessions to please each shipper they are called monopolies, and when they make these concessions they are to be prosecuted for unjust discrimination. Of course, the proper way is to strictly maintain well-regulated and reasonable tariffs; but, whatever they do, fault is found.

Senator HARRIS. The exact point of my question is this: Whether, in your opinion, any method can be devised by which both interests can be represented in the making of tariffs which shall be fair alike to the common carrier and to the general public?

Mr. FINK. That is the point I am reaching. I have endeavored to explain the practical methods employed in making tariffs, to show that the public are already represented, although it does not appear so from merely superficial observation. The shippers are at present more efficiently represented than they could be through the medium of the Government. They are in direct contact with every railroad company through their numerous agencies. There is every disposition on the part of railroad managers to meet every reasonable claim of the shippers and to do everything to foster trade and commerce, because it is to their interest to do so. I speak from my own experience and extensive observation. I do not maintain that there are not just causes for complaints. Can it be expected to establish tariffs for 125,000 miles of railroad satisfactorily to every shipper, considering that the interests of these shippers are so conflicting that what is satisfactory to one is necessarily the reverse to others. All cannot be pleased. But you must look over the whole field, and you will find practical proof that my assertion is well founded. Only look upon the immense development of the commerce of this country through the railroad system. It cannot be maintained that such results could have been obtained if tariffs were unreasonable, oppressive, and extortionate. For further evidence I suggest that you examine, in detail, the present tariff or the tariffs of past years. I will submit them to you. You will find no fault with these tariffs. They have been, upon the whole, satisfactory to the public. I do not think they could be improved by Government control, because they are controlled by so many other considerations, over which neither the railroads nor the Government have any control. These tariffs have practically built themselves up in accordance with the natural laws of trade and commerce. No statute laws can regulate them, and it would not seem to me to be right to vest the authority in any Government to absolutely control transportation tariffs at its discretion. The difficulties from which spring the evils of the transportation business do not arise so much from the absence of well-adjusted tariffs, but from the fact that those tariffs are not strictly enforced and maintained.

FEATURES OF CONGRESSIONAL LEGISLATION.

The CHAIRMAN. You say that you cannot hold these railroads to any particular tariff?

Mr. FINK. Yes; that is the great difficulty.

The CHAIRMAN. And with all the pools and all the appliances and all the information that can be brought to bear without a law, you cannot prevent these troubles. Now, the thing I want to get your views upon is, what specific kind of legislation is necessary by Congress in order to cure the evils that you admit yourself exist.

Mr. FINK. To suggest the specific legislation by Congress required to cure existing evils of railroad management makes it necessary to again call your attention to the specific causes of those evils. I do not think there is any necessity for passing laws to prevent extortionate charges by railroad companies. If any extortionate charges are made by any one railroad company, the laws of the country are quite sufficient to protect the public. The great evil of the present system of railroad management is unjust discrimination, and that may result from two causes requiring separate measures for its remedy. A single railroad company may make charges that are unjust, and if that be the case there should be no difficulty, under present laws, in punishing the offender. There is, however, great room for improvement in the administration of the law, in its prompt and efficient execution. The only objection I have ever heard why the common law is not sufficient to protect the public is not an objection to the law, but is an objection to the administration of the law. In many cases where small amounts are involved which do not justify legal proceedings against the company, the aggrieved parties are prevented from prosecuting their claims. Now, if it is recognized, as I believe it generally is, that the difficulty lies in the administration of the law, the remedy is to improve that administration. The only remedy I can suggest, looking to a prompt and efficient execution of the common law, is the establishment of special courts, of which at least one judge should be an expert in the transportation business, to establish courts for the trial of land transportation cases in the same manner as there are now special courts for the trial of admiralty cases. The establishment of such courts would, of course, require some time; but if they are once established, I am sure that in the course of time a code of laws would be developed under which all such transportation cases could be promptly adjudicated. I think the establishment of such courts is a necessity of the times, arising from the great interests involved. Ordinary courts are not properly constituted for that purpose, and the time required for the adjudication of claims is so long and the expenses so great as to defeat the very object for which proceedings are instituted.

In order to further aid the public in obtaining redress for any wrongful act committed by transportation companies, the State might, under restrictions which would prevent abuse, assume to defray the expenses of suits brought against common carriers for the violation of the common law. There may be great objections to this, and I have no doubt there are; but I merely desire to point out that it is in the improvement of the administration of the law, and not in the law itself, that you must look for the proper remedy. I am quite sure, however, that you would only have to deal with a very few cases of unjust discrimination which are traceable to the willful wrong-doing of individual railroad companies. The great majority of cases are the direct result of the uncontrolled action of a great many railroad companies, for which any one road cannot be held responsible. They arise from the fact that there have been created in this country under the laws of the several States some fifteen hundred independent railroad companies, each one having the legal right to establish such tariffs as it may see fit; and under such circumstances it must not be expected that tariffs constructed independently by so many companies should not be conflicting and unjust, considered as a whole.

Properly adjusted railroad tariffs have to be established as a unit over all or a great many of the railroads in the United States, and this can only be done jointly by the railroad companies or absolutely by the

Government. I have already given my reasons why the Government cannot or ought not to establish these tariffs. So the only legislation, if any is to be had that can be effective, is to secure the establishment of tariffs by the joint action of the roads interested, so far as the tariffs of these roads are interdependent. The question is how to secure such joint action. This, of course, is more a question of administration than of legislation; and the Government can do nothing more, if anything, than to secure a proper administration. Now, looking upon the situation as it has been developed in the course of time, we find that the necessities of the case have compelled railroad companies, not only in this country but all over the world, to associate for the purpose of establishing and enforcing proper and just tariffs, the very object you have in view to secure by legislation. Now, if this is the proper thing to do, and if it is in the public interest that it should be done, as I believe it is, then what better plan can be adopted as a remedy for existing evils than that the Government should make use of these associations and make them more effective. The defect and weakness of these associations is their voluntary character. All roads are not obliged to become members of such associations, and even those that are members cannot be forced to adhere to their rules or to the decisions of impartial arbitration. Now, let the Government remove this defect. The principle upon which these associations are formed is correct and extremely simple. They are formed for the purpose of facilitating negotiations and agreements that must, necessarily, be made in regard to tariffs, and in case of disagreement to submit the question at issue to arbitration, and thus avoid dissension and warfare. I can only suggest, as the proper and only remedy for existing evils, that these organizations should be made obligatory upon all roads, and that the rules and regulations established by them under an agreed or prescribed method of procedure should be legally enforced. This is the only thing that can be done, if anything is to be done at all. Upon this latter point I am not quite sure. It may be possible that the railroad companies will finally succeed in doing that which they agree to do, and which they consider necessary and proper to do, without Government aid. The plan suggested may seem a roundabout way to secure the objects sought to be attained by legislation; but I think it is the shortest way to the end.

The CHAIRMAN. Suppose the roads do not organize—can you make a dozen railroads come together and organize for any such purpose?

Mr. FINK. The roads come together now, without any force, except the force of necessity. That force will always bring them together, must bring them together. They recognize that it is the proper way to do, that it is to their own interest and to the public interest. But we must also recognize that human nature is not perfect. Some force must necessarily be applied to hold society together and to protect those who are honest against the action of those who want to take advantage of the good faith of others. The more complicated the object of these associations, the greater the number of members, the more difficult it is to hold them together by the mere force of intellect and honesty of individual members. But I do not recommend, at present, any compulsory measures for forcing the railroads to become members of such associations. It may be possible that by degrees they may learn to govern themselves. The only measure that I would recommend at present is that when associations of railroad companies are formed for the proper and legitimate purpose of establishing and maintaining reasonable tariffs, they should be legally forced to conform to those tariffs and

to the rules of the association. This would be a step in the right direction. It would not at once settle all the difficulties; but it would be a great improvement and a help to the railroad companies to properly govern themselves. If any competing road should stand out and not agree upon a joint tariff, the associated roads would, of course, have to meet the tariff made by that one road, as they do now; but they would act as a unit, and not fight each other.

The CHAIRMAN. Would you or not by law say unequivocally that every railroad should publish a tariff of rates?

Mr. FINK. It is not always possible for the railroads to publish tariffs upon all their traffic, but they can do so upon the large bulk of it, especially upon the great interstate traffic. They are actually doing this to-day, and they can continue to do so. But there are some cases, for example, when railroads directly compete with water transportation lines, where it would not be just to compel them to publish their tariffs unless the competing water line is compelled also to do so. This is hardly practicable, or if practicable, might not be desirable. Therefore, a certain discretion must be exercised, and it would not be just to pass a law unequivocally to publish their tariffs. The experience and practice of the past would, however, form a guide showing where it is practicable and where it is not. I think this question would regulate itself by the competition between the railroads. For example, the existing organizations publish tariffs covering a very large part of the interstate traffic, and they would have to continue to do so. It is one of the difficulties of this problem that you cannot establish a fixed law covering the whole ground; you unfortunately meet with so many exceptional cases in which a general law would work mischief.

The CHAIRMAN. An act of Congress could not very well say "You must publish your tariff in agreement with other roads," could it?

Mr. FINK. I am inclined to think that if the Government should find it necessary for the public good it could require all roads whose tariffs are interdependent to establish joint tariffs. It would not force any road to make any particular tariff. The road that desires to make the lowest tariff would, of course, regulate the other roads, as is practically the case now.

The CHAIRMAN. But Congress could say that every road should publish its tariff of freight and passenger charges?

Mr. FINK. Yes; I think as a general rule, and if such a law was passed it would indirectly force the roads to agree upon tariffs.

Senator HARRIS. That tariff, when made and published——

Mr. FINK. And approved by the Government——

Senator HARRIS. When made and approved by such tribunal as the Government may create for that purpose shall be an official tariff?

Mr. FINK. Yes, sir.

Senator HARRIS. It shall then be a legal tariff?

Mr. FINK. Yes, sir.

Senator HARRIS. Until modified? Now, what notice of the modification would you require before it shall take effect?

Mr. FINK. We have established a rule that ten days' previous notice of an advance in the tariff should be given, but no previous notice is given of a reduction. Reductions are made at once when decided upon.

Senator HARRIS. Should not the notice be given in both cases?

Mr. FINK. No; this would not work well. If notice of a reduction were given to take effect in ten days, we would hardly have any shipments for those ten days. Shippers would wait until the ten days had

passed to get the advantage of the low rate. It would disarrange business. It works better to give immediate notice.

Senator HARRIS. Would not this be possible, however improbable it might seem? The railroad company decides that it will ten days hence diminish the tariff rates on a given class of freights; for instance, grain. If that information was secretly given to a capitalist here, would not that action open the door to an immense amount of speculation?

Mr. FINK. That would be a reason why notice of reductions should be made at once when agreed upon, without previous notice.

Senator HARRIS. Still, you have decided that you will reduce the tariff?

Mr. FINK. Yes, sir; but we reduce as soon as we reach the decision.

Senator HARRIS. But suppose that you have resolved to-day in your mind that you will on the first day of next month reduce your rates, and you give to me in confidence that information privately——

Mr. FINK. This cannot be done if we give public notice of the reduction as soon as it is decided upon. This rule is rather unjust to the railroads, because whenever there is an advance we give the shipper ten days' notice, so that he can make all the shipments he may have engaged at the lower rate. We allow ten days simply for the purpose of enabling him to fulfill any contracts he has made at lower rates. But when we give notice the other way, and he has made contracts at a higher rate, we release him from the obligation to ship at the higher rates. I think our practice is entirely on the liberal side towards the shipper.

The great difficulty that we experience in establishing and maintaining tariffs is to get all the competing railroads to act together. There are always one or more that labor under the mistaken idea that they could stand outside and take advantage of the roads in the association that bind themselves to publish and maintain tariffs. It is a most short-sighted policy, as it always results in a war of rates, and unremunerative rates for all. Unfortunately, there are some short-sighted railroad managers that will repeat and repeat the same short-sighted policy, and they are mostly responsible for all the mischief that follows. They cause losses to railroad companies of millions and millions of dollars, and prevent proper adjustment of tariffs. I would be glad if you could pass a law to get rid of them; but I suppose you cannot, and we may have to await the time when this class of short-sighted officials will be displaced by a new generation that has been educated to conduct the railroad business on broader and higher principles. I sometimes despair that we ever can accomplish anything by voluntary agreement, although this would be the proper way to do. If we cannot, and the Government cannot step in and make those necessary tariff agreements binding in the same way as it enforces all other legitimate contracts, then I do not know what is to become of the railroads of this country. I am just as anxious to formulate a law that would reach the evil as you are; but at the same time I cannot see my way clear to any law that would be effective and operate justly to all interests. I can see my way clear this far: that when railroad companies do come together and publish a tariff, they ought to be made to adhere to it; but the question is how to get them together if one or the other wishes to stay out. I do not exactly know how that can be done, but I would recommend that if any legislation is to be had at all this experiment should be tried of forcing roads to publish and maintain tariffs.

The CHAIRMAN. Then suppose your organization were retained, and there were a Government commission whose duty it should be to super-

vise the rates agreed upon and published by the railroads, what practical difference would it make whether one road came into the organization or not, if we had no power to force the roads that stayed outside to carry at the same rates charged by those that were in the organization?

Mr. FINK. The roads in the association would have to make their rates to conform to those of the roads outside if their rates were lower. This we do now, but the difficulty now is that the associated roads publish their tariff and desire to adhere to it, while roads outside of the association do not have to publish their tariffs and are under no obligations to adhere to any tariff, but make secret arrangements with shippers. This is the disturbing element that makes the maintenance of proper tariffs impossible. Now, if that outside road were also obliged to publish its tariff and to adhere to it under the Government law, as the associated roads would be, then it would have no advantages, and this would induce it to join the other roads and agree upon tariff, so that a law requiring all roads to publish tariffs might have the desired effect of bringing about an agreement between all the roads, and thus secure the maintenance of tariffs. I am, therefore, in favor of forcing railroads that hold themselves out as public interstate carriers to publish and strictly maintain their tariffs. At the same time I see a great many difficulties in the way of enforcing such a general law. Congress has no control over the tariffs of roads that are exclusively located in one State. I will refer for illustration to the effect of such a law upon the relations between the New York Central and Erie Railroads. The former is located in one State and not subject to Congressional law, while the latter passes through several States and is subject to Congressional legislation. We will suppose a tariff was agreed upon between New York and Chicago, and published as the official tariff of all roads. The New York Central could readily evade the law by making a lower rate between New York and Buffalo by which the established and published through rate could be reduced without violating the law of Congress, and it could take all the business away from the Erie Railroad, which is obliged to adhere to the published tariff. The difficulty is that you cannot control the tariff on the railroads that are located in one State. And yet these roads are potent factors in the establishment of proper tariffs on interstate traffic.

Senator HARRIS. If Federal jurisdiction can absolutely control the matter of transportation beginning in one State and ending in another without claiming absolute jurisdiction over the roads purely within a State, but having jurisdiction over the commerce that passes from one State to another, no matter how many States it passes through in reaching its destination, does not that power answer all your purposes?

Mr. FINK. It seems to me that the Government cannot reach the case I have mentioned in regard to the New York Central Railroad. For illustration, suppose a shipper goes to the New York Central road and says: "I have a certain amount of freight to ship to Buffalo, and I want a low rate on it." There being no restricting law in New York State requiring published tariffs to which the New York Central Railroad has to adhere, it may make a rate to Buffalo less than the proportion of the rate the New York Central charges to Buffalo on a Chicago shipment. That shipper ships his goods to Buffalo. The New York Central need not know where the freight is finally intended to go. When it gets to Buffalo it is reshipped by the direction of the shipper from there to Chicago, at the published rate from Buffalo to Chicago, and the sum of the two charges, from New York to Buffalo and from Buffalo to Chicago, is less than the published rate between New York and Chi-

cago, less than Congress forces the Erie road to charge. The result would be that the New York Central under the law of Congress could take away all the business from the roads that are bound by the published tariffs, and the shipper evades by this method the payment of the established rate.

The CHAIRMAN. Making a double shipment?

Mr. FINK. Making a double shipment. And, without violating any law, he gets a reduction in the established rate, the very thing which you desire to prevent. Now, how can you deal with such a case? Those contingencies will have to be considered in framing a law that is to be effective and act justly to all interests. It is a very difficult problem to solve.

Senator HARRIS. In that case, if the consignment was sent to Buffalo and the fact was not divulged, that it was really intended for Chicago, that would be purely State commerce; that is, starting from the city of New York and going to Buffalo?

Mr. FINK. Yes, sir; but by reshipping the shipper can evade the law in regard to tariffs on interstate commerce, and make that law inoperative. He may have intended the shipment referred to for Buffalo, and afterwards concluded to ship it to Chicago. You cannot know his intention. The same difficulty arises with the Grand Trunk Railroad. The Grand Trunk Railroad is as important a factor in the maintenance of just and reasonable tariffs throughout the States as is the New York Central or the Pennsylvania Central. Yet the Grand Trunk Railroad is not under your jurisdiction. It can make any tariff it chooses between Chicago and Montreal. The rates from Chicago to Montreal affect the rates to all the seaboard cities in the United States. If the American roads are obliged to publish and maintain their tariffs, all that the Grand Trunk Railroad will have to do is to make a rate somewhat lower and secure all the business, or as much of the business as it can carry, and take it away from the American roads and the American ports. How can that difficulty be got over?

The CHAIRMAN. Some portion of the road is in the United States. Can you not reach the difficulty on that account?

Mr. FINK. I do not see how you can pass a law by which you can compel the Grand Trunk Railway to observe a through rate from Chicago to Montreal, which is a competing point and affects the rates from Chicago to New York. From Chicago the Grand Trunk runs to the Detroit River. It is an American road, subject to your laws; but when they cross the Detroit River have you any jurisdiction over that portion of the road from Detroit River to Montreal, and can the Grand Trunk not make whatever tariff it pleases? Under the proposed law they would have to publish a tariff from Chicago to Port Huron only. When the road leaves this country, they may carry freight for nothing. Can you compel them to observe the tariff in Canada? They may have conformed to it in this country. By this illustration you will see how difficult it is to require the railroads in the United States to publish and maintain tariffs, when foreign competitors are not subject to the same laws.

PUBLICITY OF RATES.

The CHAIRMAN. You know that on the continent of Europe and in England the railroads are required to publish their tariffs?

Mr. FINK. Yes.

Senator PLATT. They have no such difficulties with a road coming under foreign jurisdiction there, do they?

Mr. FINK. They have no road in Europe owned by the same proprietors, like the Grand Trunk, that runs through two countries. All the roads of each country stop at the boundary line. The competition there is not so fierce. The tariffs in each country are known and published. If you adopt this plan in the States, and also in Canada, that would in a measure remedy the objection, but if tariffs are to be fixed and published in the States, and the Grand Trunk is left free to make or change tariff as it pleases in Canada, it could take all the business from the American roads. In Europe, when the roads of one country come in competition with those of another—for example, in carrying grain from Hungary to Antwerp, the German roads come in competition with other grain carriers which do not pass through Germany; in that case differential rates are allowed, but only with permission of the Government. Competition in this country is carried on in a very different way, and such measures would not be practical here. The only way I can see to get over the difficulty here is to establish, to agree upon the establishment and maintenance of rates, associations of competing railroads regardless of State lines. For example, the Grand Trunk Railway should be party to such an association, when its rules could be legally enforced, acting upon the whole of its road.

The CHAIRMAN. I suppose that we can come about as near to enforcing a tariff rate outside of it as you do with it. They could leave the association and abandon the tariff if they chose to do so.

Mr. FINK. They would be bound by any agreement they make in the United States the same as the roads in the United States.

The CHAIRMAN. Suppose they say "It is to our interest to keep out of this."

Mr. FINK. But I rely upon the fact that it is to their interest as well as to the interest of all the railroads. The Grand Trunk is a member of the joint executive committee, and its officers do now co-operate with the American roads and hold themselves bound by the rules of the committee. By the plan proposed State lines are obliterated by the consent of all the roads, and that is the only way, in this country, to get over the difficulty which now makes it impossible for the Government to control the tariffs.

NECESSITY OF ROADS ASSOCIATING.

Senator HARRIS. Assuming that we have no power, as, for one, I do not think we have, to compel independent corporations, any more than we have to compel individuals engaged in the various vocations of life, to combine or associate, then what is the remedy for the evil that we all recognize as existing?

Mr. FINK. In that case you would have to rely upon the fact that the necessities of the roads will compel them to act through these associations. It is very possible that they will petition you to aid them by legalizing these associations. If the railroads cannot control their business by voluntary agreements they will have to ask for that aid. The English roads petitioned Parliament for the incorporation of their clearing-house committee, through which at present the railroad managers of England establish their tariffs and do the work that is done by our associations here. This clearing-house committee was formed by only a few roads at first. There is no compulsion upon any road to join it. And yet, in the course of a short time all the railroads in the country, or nearly all of them, became members of the clearing-house.

Therefore, I do not think that the necessity will arise for forcing the

railroad companies to become parties to associations which have in view the establishment and enforcement of proper tariffs; but I am inclined to think that if it should be shown finally that proper tariffs cannot be established and maintained except through co-operation by means of these associations, the Government would have a perfect right to prescribe to the railroads an organization under which they should conduct their business, in their own and in the public interest, the same as the Government has a right to prescribe the law or charter under which citizens shall manage the business of their city so as to secure peace and order and protect the property of individuals. I think this is not only the right, but it seems to me it is the absolute duty of the Government which it could and should exercise as between a number of railroad companies, when necessary in the public interest. The governments of some of the States have gone a great deal further, and I think unnecessarily so. They claim the right to absolutely control railroad tariffs through a commission. This is the case in Illinois and in Georgia. These extreme and I think unjust measures were taken under the influence of public indignation against railroad management, for which the companies themselves were not so much responsible as the system under which these roads were created. The measures which I propose, namely: to organize a number of railroad companies into a government of their own business in such manner as public interest may require, prescribing the methods by which they shall conduct their business, without prescribing the particular measures, is certainly more in accordance with right and justice and with the institutions of this country than the measures which have been adopted in some States for the control of the railroads. But, as I said before, I do not think that even such measures need be taken. The railroad companies may solve the problem by their own efforts without Government aid. But if they do not then the first measure I would propose would be to legalize associations that may be formed, to which the railroads may become parties, voluntarily, not by force.

EXTENT OF LEGISLATION.

Senator PLATT. Is that as far as you would go with legislation?

Mr. FINK. Yes; I propose, however, to have all such agreed tariffs submitted to the Government before calling on it to enforce them.

Senator HARRIS. I suppose "submit to us" means for our approval?

Mr. FINK. Approval, yes.

Senator HARRIS. Suppose we disapprove?

Mr. FINK. I do not think that case would arise, for reasons which I have stated.

Senator HARRIS. But, disapproving, are we to leave you without a tariff, or compel you to make another tariff, and to continue to make tariffs until we have agreed?

Mr. FINK. I suppose the ultimate result would be that the Government should have only advisory power, and I feel sure that this would be quite sufficient to establish satisfactory tariffs. Of course it need not enforce any tariff of which it does not approve.

Senator PLATT. Your opinion is that that is about the extent to which legislation can wisely and safely go at the present time?

Mr. FINK. If any legislation at all is to be had, I think that is the only way in which you can deal with the question. It is not a solution of the problem, but it is a step in that direction, so far as the establishment of interstate tariffs is concerned. There must be some authority

to establish proper tariffs. It would not be just for Congress to make the tariffs, even if it were at all practicable.

The CHAIRMAN. I do not think it is practicable.

Mr. FINK. It is not practicable. Then who is to make the tariff? The railroads are the proper parties to make the tariffs. The Government has the right to supervise them, and if its supervision is only advisory for the present, you will have no fault to find with the tariffs. The difficulty will be to enforce them.

Senator HARRIS. Am I right in assuming that your opinion is that legislation can be safely adopted only to the extent of requiring railroad companies to make and publish tariffs, or to make and submit tariffs to a tribunal to be created by the Federal Government, and, when approved, to be published and legalized?

Mr. FINK. Yes; I think so far you can go. I have mentioned some of the difficulties you will meet in even going so far. There must be certain discretion exercised as to the tariffs that can or cannot be published. I can see that there is some practical difficulty in properly defining these cases.

Senator HARRIS. The only elasticity that I can see under that plan would be the power to modify or change tariffs upon such notice, as may be required or may be agreed upon as wise and proper provisions. Then, if so made and legalized, I do not see any difficulty about enforcement.

Mr. FINK. There is still great difficulty to enforce the tariffs.

Senator HARRIS. When you have legalized it, any one railroad, for instance, may complain, and may proceed by mandamus or by suit for damages, and compel any railroad company failing to observe the tariff so made to conform to it?

Mr. FINK. Yes; I think this would be a step in advance, although I fear it would be too slow a process to do any good. More effective methods have been adopted by the associations of railroads; and if they were legal institutions, empowered to enforce their rules, I have not the least doubt that they could maintain the established tariffs. There have been long periods during which the tariffs have been maintained even by these voluntary associations. But if any one of the roads does not choose to comply with the rules and regulations of the association, there is at present no remedy. But if legal sanction could be given to the practical measures which the railroad companies have already adopted, then the tariffs could no doubt be enforced. Unfortunately, there is a greater tendency to forbid those measures than to aid the railroads in carrying them into effect; but I hope the investigations of your committee will result in a correction of the erroneous views that now are held in relation to this subject, and will bring out the fact that railroad companies are endeavoring by all means in their power to accomplish by their voluntary efforts the very object which you desire to accomplish through legislation. They have in this way made a great advance and improvement during the last few years. You can hardly conceive what would be the state of the transportation business without these efforts on the part of the railroads.

Senator PLATT. Having got the tariff, would a pooling arrangement be necessary?

Mr. FINK. No, it would not be necessary, if you could strictly enforce the tariff by law; but it would be a great aid in enforcing the law. The only object of the pooling agreement is to enforce the agreed and published tariffs. They have nothing to do with making the tariffs. Tariffs are established entirely without reference to pools. I have explained that they are regulated by other considerations; but once being estab-

lished, the pooling system is adopted to maintain such agreed tariffs, and it is a more efficient method than any legislation that you can possibly devise, because it strikes at once at the very root of the evil by removing the motive for violating the published tariffs, the motive for paying rebates and making secret concessions to shippers. The pooling agreements are intended to prevent the fights between railroad companies, which render it impossible to maintain proper tariffs. The railroad companies are common carriers, and they have public duties to perform, and have to deal impartially and justly with all shippers; they cannot do this if they fight each other. They cannot or ought not to engage in these fights, by which they necessarily violate the principles of the common law and their duties as common carriers.

POOLING ARRANGEMENTS.

By the pooling agreements the question of how much each road shall carry is determined by mutual agreement, or arbitration, making the fighting unnecessary. Each road agrees to be satisfied with such portion of the traffic as it would likely secure if it were to engage in a free fight, or whatever it may be entitled to according to its location, its connections, and the facilities it affords the public. When it is ascertained as nearly as may be possible what proportion each competing line would be entitled to, then each road restricts itself to carry no more than this proportion. Thus the interests of all the roads are fully protected, and there is no longer any motive for making secret arrangements with shippers, and thus fluctuating rates and unjust discriminations are prevented and a proper adjustment of tariffs throughout the country can be maintained. The general impression is that pooling was invented for the purpose of exacting unreasonable and extortionate rates from the public. If that were its object, or if that should be its effect, it certainly ought to be prohibited. But when its object and effect is to aid in carrying out the common law, and to maintain reasonable and proper tariffs - reasonable to the shipper and reasonable to the railroads, then it seems to me the method is a legitimate one, which, instead of being prohibited, should be legitimized, because it is the most effective and practical way of accomplishing the very object you propose to reach by legislation. Take, for example, the West Shore road, in New York. When that road was first opened for business, in January, 1884, it voluntarily became a party to the West bound Pool. It agreed to limit itself to a certain percentage of the total business, and in this way a fight on this class of traffic has been prevented. At other times, when the Chicago and Grand Trunk Railway opened a new road into Chicago, and also the Chicago and Atlantic Railway, similar arrangements were made, and the disarrangement of all tariffs was thereby avoided. Unfortunately, no agreement has been made between the West Shore and the other trunk lines with regard to the east-bound traffic; and that is what leads, in a great measure, to the present unfortunate state of affairs. Through these agreements there have been no unjust exactions in the tariff, but they have kept the tariff stable, and if it has not been perfectly maintained the fluctuations have been less than under an open fight.

Senator HARRIS. If the West Shore Railroad was an unnecessary railroad, and capital has unwisely been devoted to its construction, is the public under any obligation to sustain it, or make it a paying investment?

Mr. FINK. There is certainly no obligation to sustain that road and

that is not the intention of the pooling agreements. Whether such a road can sustain itself is entirely a question to be determined by the circumstances of the case, not by pooling. Whatever business they get they take away from some other road. The people do not pay any more for transportation, on account of the existence of that road, than they did before. The losses are sustained by the competing roads, and not by the public, and the pooling agreements would simply have the effect of preventing such losses from being greater than they need be, and also to prevent the evils which would arise from a fight between the new and the old roads. A fight between the West Shore and its immediate competitors involves necessarily a large portion of the railroad system of the country, and renders it impossible to maintain the established tariffs. It may destroy the property of many roads which have no direct interest in such a fight. The property of the innocent parties has no protection under our present laws. The first cause of all these evils is the building of unnecessary railroads. There are no laws which can protect the public against the evils resulting from it. The present state of affairs results from the fact that the roads mostly affected by this new competition are trying to protect themselves, and in these efforts they try to destroy each other's property. No roads should be built that are not needed. But I am now dealing with an accomplished fact. The West Shore Railway is built; it will necessarily take a certain amount of traffic, and the problem is, how can such a road be made the least harmful to the public interests and the railroad interests of the country? This is a subject that I would like to submit for your consideration, as it has a most important bearing upon the question you deal with, viz: What legislation is necessary to prevent the evils of railroad transportation? These evils have their cause in just such transactions.

The CHAIRMAN. By "innocent parties" you do not mean the investors in that company?

Mr. FINK. The investors in that road may rather be considered the guilty parties, but the investors in other roads, whose property is being destroyed, and the public also, who suffer from the disturbance of the tariffs, are the innocent parties.

PROTECTION OF INNOCENT PARTIES.

Now, these peculiar relations between railroads which have grown up under the expansion of our railroad system deserve some consideration at your hands. I will ask this question: If a man has a house and desires to get the insurance on it, or if, for any other reason, he thinks it may be to his own selfish interest to destroy it, is he allowed to set it on fire and burn up the whole city? Is not the law bound to step in and protect innocent parties, and are there not now laws which do protect innocent parties in cases of this kind?

The difficulty is that we have to deal with so many railroads, each one of which, for a selfish purpose, without regard to the public interest or to the interests of other railroad companies, has it in its power to inflict immense losses upon innocent parties. How can you prevent it? That is the problem to be solved.

RAILROAD CONSTRUCTION.

The CHAIRMAN. What would you think about the question of controlling the building of railroads?

Mr. FINK. There ought to be some control exercised to prevent the

building of unnecessary railroads, but it would be very difficult to determine what railroads should be built and what should not be built. There is, however, one restraint that should be put upon the building of unnecessary roads, and that is to require the parties that want to build railroads to furnish the money. If parties want to build a railroad with their own money they ought to be allowed to build it; but if they merely want to swindle innocent and ignorant people out of their money, and after they get it leave them with a bankrupt railroad on their hands, that should not be allowed. There ought to be some legislation restricting the speculative railroad building. A great deal of mischief has already been done, but, of course, it is not yet too late to make an effort to prevent it in the future. I do not know that such legislation could be had by the Federal Government.

The CHAIRMAN. That would most likely have to be done by State authority.

Mr. FINK. Very likely. There should exist laws requiring that no railroad should be built except the parties proposing to build it shall furnish at least one-half the cash that is required, and that they should not be allowed to issue bonds until at least one-half of the cash has actually been expended. No stock should be issued for more than has been actually paid up.

Senator PLATT. I think you are right there. I think no bonds should be issued and no stock should be issued until at least 50 per cent. of the amount subscribed for the stock has been paid up.

Mr. FINK. Yes. This would be a proper restriction on building unnecessary railroads.

FRAME OF A BILL.

Senator HARRIS. Would it be convenient to you to formulate, in the shape of a bill, just such legislation as in your judgment would be safe and prudent and wise to be enacted by the Federal Government in respect to interstate commerce, and under each provision to assign whatever reasons you choose for that distinctive provision of the bill?

Mr. FINK. I had proposed to prepare such a paper to put before you, although I am very free to say that when I come to the details, and consider the practical measures to be adopted, I see many difficulties that I do not know how to overcome.

The CHAIRMAN. I asked Mr. Fink last fall if he would not write out such a bill as he thought would be safe to the people and to the interests involved in the railroads, and he said then that it was easier talked about than done; and I could not get him to do it.

Mr. FINK. It is much easier to say what legislation will not do than to suggest the proper legislation. I am clear about the general principles, but to embody these in practical legislation in such complicated transactions is very difficult, and I don't know but it may be impossible. Railroad men who object to certain crude legislation that is proposed are often reproached because they do not themselves suggest the proper legislation. There is good reason for this, which you will better appreciate when you get through with this investigation.

Senator HARRIS. I made the suggestion to Mr. Fink because I know of no man in the whole country who has more extensive and accurate information, in my opinion, upon the railroad side of this question.

Mr. FINK. And upon the other side, too; I beg pardon.

Senator HARRIS. And, necessarily, Mr. Fink has a great deal of information upon the other side.

Mr. FINK. I am looking at the other side as much as upon the railroad side.

Senator HARRIS. I should be very glad, indeed, to have you formulate such a bill.

The CHAIRMAN. I would like to hear you, Mr. Fink, on the subject of rebates.

POWER OF ENFORCING POOLS.

Senator PLATT. I would like to ask a question at this point, if you will permit me. Suppose a pool was authorized by law with power to enforce the arrangement either by mandamus or penalties, could it be maintained without diverting tonnage?

Mr. FINK. Oh, yes. Pools can be maintained without diverting tonnage, and it is always better that this be done. Under no circumstances should freight be diverted if it causes delay or inconvenience to the shippers. It is not so important to divert freight for the purpose of evening tonnage under a pool agreement as it is for the purpose of preventing favoritism to shippers and the rebate system. For example, suppose we had information that a certain road in the West, say the Wabash, would disregard our agreements here and make a certain concession to a favored shipper. Our agreement here to maintain the same rates to all shippers amounts to nothing while a road beyond the trunk lines is in a position to cut the rates. We have no means of reaching that road. We cannot force them to maintain the agreed and published tariff. So we divert freight that has been consigned over the Wabash Railroad when we have good reason to believe that the rate is not maintained, and send it over some other road. When it reaches its destination, the shipper finds that he has to pay the full tariff. This is a very effective measure to stop rebates. We cannot control the tariff over so many connecting roads, each of which may make concessions to shippers, without adopting this measure. It is a very simple, practical measure, more effective than all the laws you can pass. It is also very inexpensive, compared with the cost of lawsuits. It prevents the commission of the wrongful act. There need be no punishment or fine. But, of course, the shippers that make these special contracts are very much opposed to diverting such freight. We do not propose, however, to put the shippers to any inconvenience. When complaints are made, we either settle any damage that may have been done, or we discontinue the diversion of freight to a road that cannot give the same service as the road by which the freight was originally consigned. After the West Shore road came into the New York pool on the 1st of January, 1884, we diverted some shipments to that road in February and March. Complaints were made of delays on such shipments. The road was new and unable to give the same service as the older roads; and the diversion of freight to that road was discontinued. Later in the year, in October last, the officers of that road reported that they were then in a position to do business promptly, and that they would like to get their share of tonnage again. So we made another attempt to divert shipments to them, and, I am sorry to say, with the same result. I believe as many as thirty-five complaints of delay were made. As soon as we heard of it, we again stopped the diversion of freight to that road. We do not want to make these diversions when there is any delay or any inconvenience to the shippers. But I think we have the right, under the peculiar conditions in which we transact this business, to send it by any road we please, provided it offers the same facilities. We issue a through bill of lading on such freight; we act as forwarders, and re-

lieve the shippers from great responsibilities, expense, and trouble without compensation for these services, advantages which are much greater than any disadvantages which may arise from diversion. We certainly ought to be allowed, under those circumstances, to select our partners in the forwarding business.

Senator PLATT. But you are not partners. Suppose I go to the New York Central and contract with that road to carry some goods for me to Chicago. I am to pay the freight when they get there. Can you take that freight and send it over the West Shore road, or some other road, to Chicago, and collect the freight from me there? It is not the contract I made.

Mr. FINK. The New York Central does not make any such contract with you. The New York Central only makes a contract to carry your freight to Buffalo, and then you can carry it from there in any way you may choose. But when they do make a contract with you to carry freight to Chicago, beyond the line of their road, they ought to have the right to select the road by which they will send it, the right to select their partners in the forwarding business.

Senator PLATT. Unless they make that special contract?

Mr. FINK. They do. The conditions are specially mentioned in the bill of lading.

SELECTION OF LINES BY SHIPPERS.

The CHAIRMAN. So far as we have heard, gentlemen, by writing or otherwise, a pretty large number of them—you can say nine out of ten—have advocated the policy of incorporating a provision in the law giving the right to the shipper to designate the lines of road over which his goods shall be sent. What do you think about that?

Mr. FINK. If such a law was passed it might lead to a great deal of trouble to the shippers, as it might break up the system of through billing. The general practice of railroads is to ship goods as directed. The exceptions are very few. In many cases the initial road which receives the freight and issues a through bill of lading is not in a position to direct the freight beyond its immediate connecting road. For example, if goods are billed from New York to Kansas City, the roads west of Chicago take the liberty of selecting the route by which it shall go from Chicago to Kansas City. The New York roads have no power to direct it beyond Chicago. If that should be demanded by law, they would simply refuse to give a bill of lading to Kansas City, and would probably bill the freight only to Chicago, and the shipper could select his own route beyond Chicago. The Merchants' Despatch Transportation Company, by which line Mr. King makes a great many of his shipments, sends freight over half a dozen different routes of its own selection. The shippers, generally, do not care by what route their freight is shipped, so long as their shipments are promptly and safely made. They do, however, care a great deal about the route over which their shipments go if they have made a special contract for reduced rates over such a route, and when the freight is diverted from that route they are obliged to pay the full published tariff. It is chiefly from this cause that shippers are so much opposed to the diversion of freight, and that a demand is made for a law prohibiting it. But it will occur to you that as there can be no compulsion by law to force the railroads to issue through bills of lading beyond the line of their own road, as that is simply a voluntary act undertaken for the accommodation of shippers and without compensation, there can be no law prescribing conditions that the railroads are not willing to accept. If a law should be passed

making these conditions onerous or impossible to be complied with, then the railroads would have simply to cease acting as forwarders, and stop the system of through billing. In that case what would be the use of a law prescribing the rules under which through billing shall be done. I apprehend that if such a law were passed it might result in a good deal of trouble to the shippers.

I do not think there is any need of such a law, as the difficulties complained of are more imaginary than real. The chief cause of these complaints is that the diversion of freight compels the maintenance of tariffs and breaks up the system of secret rates and rebates. The end to be accomplished would even justify occasional inconvenience to shippers. But I have already stated that under no circumstances do the railroad companies desire to divert freight unless it can be done without inconvenience to the shipper. The difficulties of diverting freight under a pool may, however, be overcome in another way. The railroads can charge more for freight which the shipper insists must be shipped as he directs, or make some reduction to the shipper who is willing to leave the direction of the freight to the railroad companies. Such difference in charges between the higher and lower rate is to compensate a shipper for any disadvantage that the diversion might cause. This would be a legitimate contract to make with the shippers, and ought to satisfy the parties who are opposed to diversion.

REBATES AND DRAWBACKS.

The CHAIRMAN. What do you think about incorporating a provision in any law that may be passed prohibiting rebates and drawbacks?

Mr. FINK. I do not think such a law, simply forbidding rebates and drawbacks, could be effectively enforced, although it would, no doubt, do some good, in that it would declare rebates to be unlawful. A distinction must, however, be made between rebates paid to evade the established or published tariffs and rebates which are perfectly legitimate.

The CHAIRMAN. They may be for the purpose of correcting errors.

Mr. FINK. Yes; or they may be in the nature of making concessions from the published tariff.

The CHAIRMAN. If rebates are paid merely for the purpose of reducing the tariff, and have the effect of unjust discrimination they ought to be forbidden.

Mr. FINK. They ought to be forbidden; but when rebates or drawbacks are made on account of errors in the tariff, or in the classification, or in the weight, and a great many have to be made, you could not forbid those. You will find it almost impossible, however, from the very nature of these transactions, to prevent by law the payment of rebates when given for the purpose of making concessions to the shippers. A reduction in the tariff can be made in a thousand different forms; it may be made through reductions in the weight, charging for less than the actual weight, or by a donation to a shipper. If he ships by a line for a year, and he has been a very good customer, the company can make him a Christmas gift. And so the law may be evaded in thousands of ways. It is almost impossible to discover these evasions, and you cannot punish them before you discover them. The practical methods adopted by the railroads to which I have referred, are much more effective. They remove the motive for the evasion of the law, and I do not think that you can enforce a law without their aid.

The CHAIRMAN. In the discussions in the Senate, and in the House also, the statement was oft repeated that the Standard Oil Company had got rebates to the amount of about \$10,000,000, I think it was, in a brief period of time. That must have been a pretty lively operation, it seems to me, if such is the fact.

Mr. FINK. Here you have the best illustration that could be given of the necessity of pools. In this case the railroads were used by the Standard Oil Company, one against the other, to make private concessions. Each road desired to secure the business of the Standard Oil Company by underbidding the other. If the competing roads had come together and agreed upon a fixed tariff and divided the traffic, say one-third of the shipments to go by each road, in other words if they had made a pool and insisted upon the full tariff, then the motive for making these concessions would have been removed, and the railroad companies would have received full pay for the work they did, and other shippers would have paid no more than the Standard Oil Company. The Standard Oil Company might then not have existed in its present magnitude, and unjust discrimination would have been avoided. Competition of this sort between the railroads, each road underbidding the other to secure large shipments, builds up monopolies in trade. That is the case not only in the oil business, but also in the live-stock and grain business, where large shippers manage to get rebates and crowd out the small shippers. Pools instead of destroying competition prevent monopoly in trade by preventing unjust discrimination between large and small shippers.

WATERING OF STOCK.

The CHAIRMAN. You have stated pretty frequently, as I remember, in your printed documents before committees your views of the effect of watering the stocks of roads upon transportation by rail.

Mr. FINK. Yes.

The CHAIRMAN. So that it will not be worth while to ask you anything further on that question, perhaps.

WATER ROUTES.

Senator GORMAN. Have you ever stated what effect the improvement of the Mississippi River may have on east and west bound freights?

Mr. FINK. The Mississippi River is an important regulator of railroad transportation rates, although at this time its influence is not felt so much, especially on grain rates, because rates by rail and by canal are so extremely low.

Senator GORMAN. Are not the principal regulators the Erie Canal and the Canada water-ways?

Mr. FINK. At present we do not even feel these, although under ordinary circumstances the lake, the Erie Canal, and Mississippi River are the great regulators of railroad transportation charges. At present, the rail rates are as low or lower than the rates ordinarily are by the water routes.

The CHAIRMAN. I think you stated that the Mississippi River and the lakes and canals really did regulate the question of transportation to a very large degree?

Mr. FINK. They do.

UNIFORMITY OF ACCOUNTS.

The CHAIRMAN. Allow me to ask one or two other questions. One of the inquiries that we make is as to whether it would be important to re-

quire railroads to keep a uniform set of books or accounts. What is your judgment about that, from your experience in dealing with railroads? Can that be done or not, consistently, or is it of any great importance to anybody that it should be done?

Mr. FINK. It would be difficult to require all the railroads to keep uniform accounts, and I do not think it would be necessary. If they furnish you the information which you desire, and which may be useful to you, no other should be asked. Then it would not make any particular difference by what special method of account-keeping they arrive at it. Every company has its own system of keeping accounts which has been the outgrowth of years. The officers are accustomed to it, and I think it would be impracticable to make any changes. Any information that may be useful to the Government, of course, can be furnished without interfering with the method by which it is obtained.

The CHAIRMAN. What would you think of this. Suppose that Congress should pass a law creating some sort of tribunal for the control of railroads; how would it do to leave that question in the hands of that tribunal to determine as they thought best?

Mr. FINK. I think that would be the proper way to do.

POWERS OF A NATIONAL COMMISSION.

The CHAIRMAN. What do you think of the question of whether we ought to have a commission or not, and, if so, what power it ought to possess?

Mr. FINK. I am in favor of having a competent commission appointed for the purpose of collecting information, in order to help to a proper understanding of this intricate subject, such commission to be empowered to receive complaints and to investigate the same; and to act as a mediator and counselor between the railroads and the public. Much good can be done by a competent commission, not only in bringing about a proper understanding between the railroads and shippers, but in actually remedying a great many causes of complaint. The more impartial, intelligent, and skilled in the practical transportation business the members of such a commission are the more useful will be their work. They ought to be superior in knowledge to the average railroad manager, to be able to advise him and to influence him by this very superiority. A commission consisting of members who are not practically acquainted with the transportation business, who have to learn everything after they get into office, and who have to go out of office as soon as they have learned anything, cannot be expected to do much good. They may do a great deal of harm, and may simply become a nuisance both to the people and to the shippers. There are, therefore, two sides to the commission question. The selection of commissioners should be made under the civil service rule, and they should show that they are masters of the business which they are expected to control. Under such circumstances I am very much in favor of a commission. Under the others I have named, I am very much opposed to it.

The CHAIRMAN. It has been alleged that whatever commission is created ought to be clothed with judicial power to try cases and decide them.

Senator HARRIS. And have the power to enforce its decrees.

The CHAIRMAN. What do you think of that?

Mr. FINK. Judicial power should not be vested in a commission without first establishing more specific laws under which it can act. Such commission must not be allowed to first make the law, and then, with-

out any knowledge on the part of those who are to comply with it, decide the law and execute it. Commissions, or courts, or any body of men, who are at the same time law-makers, judges, and sheriffs, are not to be tolerated in a free country. Under any circumstances I am very much opposed to that kind of legislation. Unfortunately some of the States have already created such bodies, who practically have the law-making power and the judicial power. I hope they will be abolished at an early day. I would therefore not like to see the United States Congress constitute similar bodies.

The CHAIRMAN. But the question is based on the supposition that Congress passes a law for the control of interstate commerce, and provides a special tribunal. It is argued by Mr. Sterne very strongly today that that special tribunal should be a court, if you please, with power to decide railroad cases and enforce its decisions.

Mr. FINK. Unfortunately Congress can pass no definite laws under which the railroad property can be managed; in the absence of a well-defined law, and the commissioners making their own laws, no judicial power should be given to them. For example, the bills which passed the House and the Senate last session are of a very general character, impossible, I think, to enforce. They provide that there shall be no more unjust discrimination, without defining what constitutes unjust discrimination, except in one or two cases. In the majority of cases railroad officers would not know what unjust discrimination is, and they might violate the law without intending to do so or knowing that they did, and afterwards the commission would, as a matter of opinion or private judgment, decide that they had committed an act of unjust discrimination, thus first making the law and then adjudicate under it. Before judicial power is given to any tribunal to enforce the laws, the laws which are to be executed must be more strictly defined, so that we can know beforehand what is lawful and what is not.

The CHAIRMAN. Of course, if we create a special tribunal and authorize it to sit in railroad cases, it could not fine anybody or assess any damages against anybody unless there was a law authorizing it to do so—for extorting from a shipper or for discrimination between one shipper and another. The question I was anxious to get you to answer was whether we ought to have a commission or a special tribunal, and whether, in your judgment, that tribunal ought to be appointed as a judge is appointed, and sit as a judge for that special purpose, and whether it should decide cases and then enforce its decisions.

Mr. FINK. Yes, if I understand you correctly. I am in favor of establishing special tribunals to try railroad cases, but they must be purely judicial tribunals and must act under well-defined laws.

The CHAIRMAN. But suppose we pass now all the laws you want in reference to making tariffs, and so on. There is a possibility that somebody is going to violate them, and that somebody is going to suffer from that violation.

Mr. FINK. Yes.

The CHAIRMAN. We want to enforce that law and protect the people?

Mr. FINK. When you succeed in establishing clearly defined laws, then I am in favor of establishing a tribunal to which judicial powers are given to decide under these laws.

Senator HARRIS. Did I understand you to say that you consent to formulate such legislation as you, upon due reflection, think advisable?

Mr. FINK. I will try; but I cannot formulate anything that would be satisfactory to myself. I might suggest the principles upon which leg-

islation should be based; I do not see my way clear to any definite legislation.

The CHAIRMAN. We shall be very glad to have all the light you can give us, in whatever shape you see proper to put it; it may help us, perhaps, to formulate something when we get through with the investigation.

RAILROAD COMPANIES' ASSOCIATIONS.

Mr. FINK. Before your committee adjourns, I would like to have an opportunity, it being now too late, to explain to you the practical operations of the joint executive committee, which association has been created for the same purpose which you desire now to accomplish through legislation; it would, therefore, be of interest to you to understand its practical operation, to see what is necessary to be done to accomplish its purpose, believing, as I do, that in no other way than by the methods there followed can you obtain the end which you have in view. My idea is that you should make use of such associations, and make them legal and obligatory at least, if necessary to have the members transact their business with each other and the public upon sound business principles, and to avoid the fights and dissensions between these public servants which disables them from properly performing their public duties as common carriers. The joint executive committee has published six volumes of their proceedings, copies of which I will furnish you, and in which every detail of their transactions is recorded, and from which will appear the nature of those transactions and their necessity. You will also find there a record of the struggles which the committee has made to carry out its object by voluntary agreements; and I think that if you will look over the past operations of the joint executive committee you will be strongly impressed with the amount of good that has been already accomplished, and how much more might be accomplished if some power were given to the committee to legally enforce the agreements made between its members.

The CHAIRMAN. How long would it take you to explain this?

Mr. FINK. I cannot tell.

The CHAIRMAN. Could you come back to-morrow morning?

Mr. FINK. If you say so, I shall be at your service.

The CHAIRMAN. Mr. Blanchard, I believe, is to come before us at 10 o'clock.

Mr. FINK. Do not let me interfere with any other engagements. I am willing to wait until you get through with all others, but I am exceedingly anxious that your committee should at least understand this railroad question from my standpoint, and at least not misunderstand me. I do not ask for any legislation at all at this time, because I am fully convinced that the kind of legislation that is required cannot be secured on account of the adverse sentiment of public opinion. Congress cannot legislate in advance of public sentiment, and public sentiment is not yet educated to understand the subject thoroughly and properly. Although I believe great progress is being made, and your committee will do a great deal of good in that respect, I do not recommend, at present, any legislation further than may be necessary to get proper information on which to base future legislation. I do not even ask you to legalize the associations through which the railroads desire to carry out the object of the proposed laws; nor do I ask you to legalize pools, although it is my conviction that these are the only proper means which can be adopted for dealing with the railroad problem in this country. It may be a great deal better to wait and see whether the railroad com-

panies cannot deal with these questions without the aid of legislation, and only resort to it when it is fully established that they cannot. It is a great deal better to leave these matters in their present shape and let the roads fight it out as best they can for a little while longer. It is a very expensive way of learning, but after the lesson is once learned, the institution will, perhaps, be more permanent than if based upon laws which are in advance of the intelligence and understanding of the people and, I may say, of the railroad men themselves. We are now passing through a period in which the lesson is being taught that it is not a profitable undertaking to build unnecessary roads. If the Government had provided some safeguards in this respect, it would not now be necessary to pass through this expensive experience.

The CHAIRMAN. We shall be glad to have you come back on Saturday afternoon.

Mr. Fink was prevented from appearing before the committee again, and was requested to communicate in writing such additional information as he might desire to lay before the committee.





REPORT

UPON THE

Adjustment of Railroad Transportation Rates

TO THE

SEABOARD.

BY

ALBERT FINK.



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REPORT

UPON THE

ADJUSTMENT OF RAILROAD TRANSPORTATION RATES

TO

SEABOARD CITIES.

NEW YORK, *Dec. 1, 1881.*

I herewith submit a report upon the adjustment of transportation rates over the Trunk Lines between the seaboard cities and common competing points in the West, with statistical information relating thereto. The question is: What shall be the relative transportation charges by rail from common shipping points in the West to New York and the other Atlantic seaboard cities?

During the last twelve years changes have been made from time to time in the adjustment of rates which it will be interesting to note.

In 1869 the agreed difference in favor of Baltimore in the rate on grain was 10 cents per 100 pounds. In 1870, after a war of rates, it was reduced to 5 cents per 100 pounds. Up to 1876 this difference remained the same on grain and the lower classes of freight, while there was an agreed difference of 10 cents per 100 pounds on first, second and third-class freight.

On Westbound freight the difference in favor of Baltimore and Philadelphia, as per tariff of November, 1875, was as shown below :

	1st Class.	2d Class.	3d Class.	4th Class.	Special Class.
Baltimore	10c.	9c.	8c.	6c.	5c.
Philadelphia	7c.	7c.	6c.	4c.	3c.

In March, 1876, the system of making fixed differences in rates based upon New York rates was abandoned, and the Trunk Lines agreed to and the Western roads adopted, on April 13, 1876, a tariff which was based upon the relative distance of the cities named, from Western common points. According to this tariff, the rates from Chicago to Baltimore were 13 per cent., and to Philadelphia 10 per cent. less than to New York. From Cincinnati to Baltimore, 24 per cent. less, and to Philadelphia, 12 per cent. less than to New York.

A month and a half after these rates were adopted, the New York Central Railroad and Erie Railway withdrew from this agreement, as it gave too great advantage to Philadelphia and Baltimore. A war of rates commenced, and continued until July, 1877; when the agreement of April 5, 1877, went into effect. Fixed differences in rates were re-established instead of the differences based upon relative distance from common shipping points.

On Eastbound freight the rates were made according to this agreement, from all points West to Baltimore, 3c., and to Philadelphia 2c., less than to New York. On Westbound freight the rates from Baltimore and Philadelphia were less on different classes, as is shown below :

	1st Class.	2d Class.	3d Class.	4th Class.
From Baltimore.....	8c.	8c.	3c.	3c.
“ Philadelphia.....	6c.	6c.	2c.	2c.

The agreement of April 5, 1877, was made with the view of equalizing the aggregate cost of rail and ocean transportation between competing points in the West and all domestic and foreign ports reached through Baltimore, Philadelphia and New York.

The closing article of this agreement reads: “This agreement is intended to be permanent; but if either party desires modification, three months’ notice must be given of such desire, said modification to be made by mutual agreement.”

The agreement is signed by Messrs. William H. Vanderbilt, H. J. Jewett, Thomas A. Scott and John W. Garrett.

The New York Central Railroad Company gave the required notice, June 3, 1880, on the ground that the differences in

rates adopted April 5, 1877, and which went into effect July 1, 1877, were based upon the then existing ocean rates, with the view of equalizing shipments from common points west to common points in Europe, making at that time the rates substantially the same on all export business through the different ports; but that since that time reductions have been made in the ocean rates from Philadelphia and Baltimore, which bring them nearly on the same level with those from New York, thus giving the Southern ports greatly the advantage over New York on export freight.

No official discussion with the view of modifying "by mutual agreement" the differences, as it was provided in the contract of April 5, 1877, has taken place, but in unofficial intercourse between the officers of the different railroad companies, the ground is generally taken by the New York roads that the inland rates to Baltimore and Philadelphia should be the same as to New York. This claim is not admitted as just by the Pennsylvania and Baltimore and Ohio Railroads.

The question arises, What is a proper and equitable adjustment of rates, taking into consideration all the facts bearing upon the subject?

Great difficulties and complications are encountered in answering this question.

The object is to determine the relative charges for transportation by rail to the seaboard cities, with the view of securing to each of the competing railroad companies a fair share of the traffic, without at the same time unjustly discriminating between the commercial communities, each of which must have an equal chance, unrestricted by arbitrary transportation charges, to compete with the other in the markets of the world.

The first difficulty met in solving this problem is: No one has, or can have, any definite idea as to what constitutes an equitable distribution of the competitive traffic between the rival railroads and between the rival cities. There is only one conviction strong in the mind of each of the interested parties, viz., that it should have all that can be secured.

In the second place, if any definite idea could be formed as to what constitutes a just and equitable distribution of traffic, it would be impracticable and impossible to

predetermine the relative transportation charges that would result in the desired distribution.

Thus the problem to be solved is shrouded in uncertainties. Results are to be reached, which no one is able to define, and means are to be used, of which it is impossible to predetermine their exact effect. Yet it is absolutely necessary that there should be some agreement as to the relative transportation rates to and from the competing cities, as a failure to agree upon such rates must naturally result in expensive and costly railroad wars, and in the final ruin of this great railroad property, and its calamitous consequences.

A war of rates such as has been waged for the last four or five months between the Trunk Lines, costs the railroad companies east of the Mississippi River, represented on the Joint Executive Committee, at the rate of from twenty-four to thirty millions of dollars per annum.

This is the difference between just and reasonable compensation, to which the railroad companies are justly entitled, and the actual compensation which they receive.

These wars not only affect the interests of the railroad companies—the great number of the American people, who have invested their means in this property—but they also affect the interests of others, particularly the mercantile classes of our people. These fluctuations and uncertain rates of transportation unsettle commercial transactions, bring about unjust discriminations, and many of the other evils of which the people complain, and for which railroad companies are so often blamed, but unjustly so, considering the complications and difficulties encountered in the solution of the problem.

The question of the proper adjustment and permanent maintenance of reasonable and just transportation rates between the competing railroad companies, must, therefore, be considered of the greatest importance not only to the railroad companies, but it is really a question of national importance.

I make these remarks to justify the attempt at a thorough investigation of the subject, with a view of discovering, if possible, whether there are not some certain fixed principles that could be recognized as correct by all parties, according to which a proper adjustment of rates could be made from time to time that could be

permanently maintained, and by which the evils that must follow from a failure to agree upon this important question, could be prevented.

It will be necessary to first consider what has been the result of the adjustment of rates as at present agreed upon, and in what respects they are not satisfactory, and whether there are good reasons why a modification should be made.

THE RESULTS OBTAINED UNDER THE OPERATION OF THE
AGREEMENT OF APRIL 5, 1877.

Statement A has been compiled from the Produce Exchange Reports, showing the receipts of grain and flour (converted into grain at $4\frac{1}{2}$ bushels per barrel) at New York, Boston, Philadelphia and Baltimore, during the existence of this agreement.

Expressed in percentages of the total receipts of grain and flour at the cities above named, the following distribution has taken place :

	1878.	1879.	1880.
New York.....	56.0	52.6	53.5
Boston.....	10.0	10.6	11.7
Philadelphia.....	16.7	15.3	15.6
Baltimore.....	17.3	21.5	19.2

The above statement includes the receipts by canal and other routes besides the Trunk Lines, as well as the receipts by the Trunk Lines from local points on their roads east of the terminal points, which latter cannot be considered as competitive traffic between the Trunk Lines.

Statement B shows the receipts of Eastbound tonnage of all classes by rail over the four Trunk Lines to Boston (including New England), New York, Philadelphia and Baltimore, (exclusive of the traffic carried to Boston *via* the Grand Trunk Railway). This traffic originates at, and west of, the termini of the Trunk Lines (Buffalo, Pittsburgh, Salamanca, Wheeling, Parkersburgh, etc.), and may be considered as competitive traffic.

The result expressed in percentages of total tonnage carried by the four Trunk Lines is as follows :

	1878.	1879.	1880.
New York.....	42.8	43.2	44.3
Boston (including New England).	22.0	19.5	23.3
Philadelphia.....	17.6	18.1	16.1
Baltimore.....	17.6	18.9	16.3

The same statement also shows the Westbound traffic from the four cities named, including that carried by the Grand Trunk from Boston, and from a number of competitive points in New England.*

	1878.	1879.	1880.	1881. (8 months.)
New York.....	58.1	54.2	54.6	56.3
Boston.....	16.2	16.3	16.5	18.9
Philadelphia.....	15.5	16.1	16.0	13.6
Baltimore.....	10.2	13.4	12.9	11.2

In examining these statements, one must be struck with the small fluctuations in the distribution of Eastbound and Westbound traffic that have taken place since the agreement of April 5, 1877; and the conclusion might be drawn from the facts presented, that the adjustment of rates then agreed upon should be satisfactory, as the relative proportion of the whole competitive traffic carried to and from each of the rival cities has remained about the same, or as nearly so as could be reasonably expected. The great increase in traffic has been shared proportionately by each of the several cities. Neither city would, therefore, seem to have a right to complain, nor the Railroad Companies, whose interests are identified with these cities.

It is, however, maintained by the New York Central Railroad Company, that the facts here presented are not conclusive. It is admitted, that on account of what was considered an un-

* The tonnage carried by outside lines from New York, which have entered into competition since 1878, and which is not included in the above statement, readily accounts for the reduction in the percentage carried by the four Trunk Roads from New York.

fair adjustment of rates, certain concessions have been made to shippers to New York, by which the differences in rates in favor of Philadelphia and Baltimore were, in a measure, counteracted. The New York Central Railroad Company maintains that if the present agreed differentials had been strictly adhered to, business that legitimately belongs to New York would have been diverted to the Southern ports.

This, of course, raises a new question, viz.: What has been the actual relative adjustment of rates for the period during which the distribution of traffic took place, as reported in the foregoing statements?

If this were known, some opinion could be formed as to the future adjustment. It is not maintained that any of the Trunk Lines or their connections have very strictly adhered to the established and published tariff. It is very probable that concessions made by the New York roads have been promptly, although not openly, met by the other railroads, and *vice versa*.

It might be possible, but it would be very difficult, to ascertain the actual rates that were charged to each of the cities by each of the roads during the periods named. Could this information be obtained, it might form a correct basis for a new adjustment of differences in rates, provided it is conceded that the distribution of traffic during the last three years has been satisfactory.

But in the absence of the knowledge of the actual rates that have been charged under which these results were reached, we have only to deal with the simple fact, that during the last three years, under an adjustment of rates that is unknown, there has been no material change in the relative distribution of the traffic between the four cities. During a portion of the time, in 1878-79, hardly any serious attempt was made to maintain rates. During a period in 1879 a war of rates was carried on; but, commencing with July, 1879, and during the year 1880, rates were more strictly maintained than at any previous time in the history of the Trunk Line competition; but even during that period the railroads made rates from time to time to suit their own interests, regardless of the agreed adjustments.

We must, therefore, conclude that the results as presented in Statements A and B, were obtained under free competition, re-

stricted during some portions of the time within narrower limits than under an open war of rates. While, therefore, these statistics have no value in determining the operations of differential rates in the past, or for the purpose of basing upon them a new adjustment, they possess great value as showing the distribution of traffic under the operation of free competition, uninfluenced by any fixed adjustment of transportation rates.

Another very important conclusion must be drawn from the facts presented, viz.: That the constancy with which this distribution has taken place under the free competition of the transportation lines, must be ascribed to the existence of certain laws and conditions that determine the distribution of traffic under free competition, as such constancy in results could hardly be expected from mere accidental causes.

It, therefore, becomes of great interest to determine, if possible, what are these conditions that influence and control the distribution of traffic between the rival Railroad Companies and rival commercial communities? Upon this point I wish to present the following views:

THE PRIMARY CONDITIONS THAT CONTROL AND LIMIT THE DISTRIBUTION OF TRAFFIC UNINFLUENCED BY TRANSPORTATION RATES.

First.—One of these conditions is: The relative carrying capacity of the Railroads and Transportation Lines, and the extent of their Terminal Facilities.

The carrying capacity of the Trunk Lines is, during a portion of the year, taxed to its full extent; at least this has been the case in the last two years, during which statistics have been kept in this office, showing the tonnage carried by the Trunk Lines while they were taxed to their fullest capacity. If any one of the Trunk Lines had carried freight for nothing during that period, it could not have increased its tonnage at the expense of its competitors.

The question of the adjustment of rates, under these circumstances, has, therefore, no practical bearing upon the distri-

bution of traffic between the Trunk Lines; and as this distribution affects, in a measure, the distribution between the cities, it has no bearing upon the latter.

The statistics of the relative amount of traffic carried by each Trunk Line, show the important fact, that the relative amount of business transacted during the period when the Trunk Lines were taxed to their fullest extent, and when the adjustment of rates could have no influence, did not materially differ from the relative amounts of tonnage carried during the whole year; which shows that there are certain laws and conditions which regulate the distribution of traffic even at times when there is not as much business as the railroads can carry.

This is further proven by statistics, showing that from June 15, to November 1, 1881, during the present war of rates, when each road made such rates as it saw fit, the distribution of the competitive traffic between the Trunk Lines has not materially changed, as compared with the preceding twelve months, ending June 1, 1881, during which period there was a nearer approach to a maintenance of rates than at any previous time.

It appears from these statistics, that the variations in percentages of total tonnage carried by the four Trunk Lines during the war of rates, as compared with the previous year, when the railroads received reasonable compensation for their services, were as follows :

The N. Y. C. & H. R. R.R.	gained—1.1 per cent.
The N. Y., L. E. & W. R.R.	gained—1.1 per cent.
The Pennsylvania R.R.	gained—0.5 per cent.
The Balt. & Ohio R.R.	lost—2.7 per cent.

The reduction in the percentage of the Baltimore & Ohio Railroad was, no doubt, due to the failure of the grain crop in the territory which is especially tributary to that road. It may also be partially due to the policy of the Baltimore & Ohio, during a war of rates, not to carry freight at a loss.

These statements, it may be remarked here, prove how unprofitable are wars of rates. They do not change the distribution of traffic between the competing lines or even between competing cities; their only effect is a general reduction in the revenue of the roads engaged in them.

To prove more conclusively that the relative carrying capa-

city of the Trunk Lines, and their terminal facilities, primarily control the relative amount of traffic received by each city, Statement D has been prepared, showing the grain receipts at the five Atlantic seaboard cities during the last fifteen years, from 1865 to 1880, inclusive; also including the year 1860.

Immediately after the war, in 1865, the Baltimore & Ohio Railroad commenced to enter into competition for the grain carrying business, by establishing lines of steamers from Baltimore and by extending their railroad system and connections in the West, through leases, and by constructing new roads. Its main line was extended to Chicago in 1874.

Meanwhile, the Pennsylvania Railroad Company had also extended its railroad system in the West, and controlled or owned most of its Western connections. It had acquired the Northern Central Railroad, and had improved its terminal facilities in Baltimore and Philadelphia. We notice, on Statement D, consequently, constant increase in the receipts of grain at Philadelphia and Baltimore. The receipts at Philadelphia increased from 8.6 per cent. in 1865, to 12.3 per cent. in 1870, and to 17.4 per cent. in 1876. The Baltimore receipts increased from 11.4 per cent. in 1865, to 16.9 per cent. in 1876.

It was during the war of rates in 1876 that the receipts at Baltimore increased 4.7 per cent. over the previous year, showing the effect of the improvements made in transportation and terminal facilities, during a year of free competition between the transportation lines, uninfluenced by any arbitrary adjustment of rates.

In the meantime New York had not been idle. Improvements in its terminal facilities were commenced, and increased efforts were made to maintain its grain trade; and we find from Statements A, B and D, that since 1877, during which period the terminal and transportation facilities have remained relatively about the same in the various cities, the distribution of the traffic between those cities has not materially changed.

Another illustration of the correctness of the above assertions as to the controlling power of terminal facilities, is furnished by the experience of 1881. During the last year, great additions have been made to the terminal facilities at New York, by the erection of elevators for the New York, Lake Erie and Western and Pennsylvania Railroads, while the terminal facilities of the Southern ports have remained stationary. We already

see the practical effect during 1881 in the grain receipts in the City of New York. While the canal has not brought much more than one-half the proportion of grain to New York which it carried last year, the increased rail receipts have made up the deficiency, so that the relative amount of grain received at New York during this year is about the same as last year. Without these increased terminal facilities, New York would, no doubt, have received less grain, because the competition between the railroads has reduced to such a great extent the receipts by canal. This was the case during the war of rates in 1876, when the relative grain receipts in New York were less than in any year since 1865.

From these facts, showing the controlling influence of the relative carrying capacity of the railroads and of the terminal facilities upon the distribution of traffic, the conclusion must be drawn, that any arbitrary adjustment of rates which might be agreed upon, could not be maintained for any length of time, if it would have the effect of counteracting these more powerful controlling agencies.

The past history of competition between the Trunk Lines fully establishes the fact, that arbitrary differentials have been maintained only so long as it suited the interests of the competing roads. The distribution of the grain traffic during the last fifteen years between the five cities, as recorded in Statement D, must be considered as the result of free competition between the railroad companies, and the result of their efforts to improve their transportation and terminal facilities, uninfluenced by any arbitrary adjustment of rates.

It is important to keep this fact in view, as it will aid in answering the question, "What constitutes just and equitable adjustment of transportation rates?" viz.: That adjustment is the proper one which does not interfere with the natural distribution of traffic as influenced by the transportation facilities of the competing roads. The railroad companies and the commercial communities must rely upon their own efforts to improve the conditions that legitimately influence the distribution of traffic, rather than upon the efforts of competing roads to maintain an arbitrary adjustment of rates, or to undercut rates one against the other.

As a second condition which influences the distribution of the grain traffic (constituting about 73 per cent. of the total Trunk Line Eastbound tonnage to the seaboard cities), may be mentioned the storage capacity of private warehouses in the various cities, which limit the business transactions, regardless of transportation rates, in the same way as the carrying capacity and terminal facilities of the railroads.

The great influence which this storage capacity exercises over the distribution of traffic, is illustrated by the experience of Baltimore during last summer. Baltimore, having only a storage capacity of one-fifth of that of New York, could not, under the then existing circumstances, have received more than a certain amount of grain, even if it had been carried to that city for nothing. The limiting influence of the storage capacity is mostly felt during times when there is no, or a small demand for export grain. After the storage capacity is exhausted, the railroads can only carry sufficient grain to supply the demand from day to day. Emergencies of this kind frequently occur, and form a strong element in influencing the final results of the distribution of traffic between the seaboard cities, regardless of adjustment of transportation rates.

The effect of temporary restrictions of the trade of a city, extends far beyond the time during which they exist. Frequent blockades, caused by want of storage capacity, are a permanent injury, and can only be avoided by large additional outlay of capital.*

* The correctness of these views, and the effect of limited storage capacity in restricting the distribution of traffic between the rival cities, is shown by the following extract from a letter, published in the American Exchange, January 3, 1882. The letter was written by a New York grain merchant, who also does business in Baltimore, in answer to an inquiry whether a certain difference in rates in favor of Baltimore would overcome the advantages which New York possessed. It says: "Yes, we believe that if Baltimore will simply increase her storage facilities, and give reasonable guarantees that she will hereafter refrain from the suicidal policy of exorbitant storage charges" .

. "She could live and hold her own even upon an equal freight basis with New York."

This means, if Baltimore had the same facilities of transacting business as New York (the increased storage charges being the result of want of storage capacity), Baltimore could hold her own at even transportation charges.

Third.—Other conditions that influence the distribution of traffic are, the established commercial relations of each city in this and foreign countries, the capital employed, the enterprise of its merchants, the shipping facilities, especially as influenced by the import trade, and even by the current passenger and emigrant business—all these elements exercise the strongest influence in determining the current of trade.

The advantage which one city may possess in this respect cannot be readily counteracted by others less favorably situated; at least, any change in these conditions that influence the amount of business transacted, must necessarily be of but slow growth. The older and established markets should and generally do keep up with the improvements made by their younger competitors, and it is, therefore, reasonable to expect that their relations in this respect will remain permanent. But if changed, the change is certainly a legitimate one, and should not be counteracted by any arbitrary adjustment of transportation rates.

Fourth.—One of the most important controlling conditions affecting the distribution of traffic between the Trunk Lines, and, in a measure therefore, between the Atlantic seaboard cities, is, the location of the competing railroads, and of their connections relative to the territory from which they draw their business.

There seems to be a general impression that the bulk of the traffic of the Trunk Lines is drawn from the principal points of competition where the products of the country are collected, such as Chicago, St. Louis, Cincinnati, etc. That this is not the fact, will appear from Statement E, which shows the sources from which the traffic that passes over the four Trunk Lines is derived; it also shows the relative amount of traffic obtained from each of these sources.

From this statement it appears that the principal points of competition, Chicago, Peoria, St. Louis, Indianapolis, Cincinnati, and Louisville, furnish only 26.25 per cent. of the whole amount of traffic carried by the four Trunk Lines. The traffic from these cities has heretofore been apportioned between the terminal roads, and the question of the adjustment of rates is,

therefore, of little importance, as far as the railroads are concerned, if the agreement in regard to division of traffic is perfected and carried out.

Four other important points, Milwaukee, Cleveland, Detroit and Toledo, furnish 9.76 per cent. of the total traffic. At Toledo the Wabash, St. Louis and Pacific Railway traffic is already divided. At Detroit a division has been contemplated, and if the agreement is perfected, the question of an exact adjustment of rates will be eliminated from this portion of the competitive traffic.

From fifteen other less important points (enumerated in Sec. III. of Statement E), where there is comparatively a small amount of business, and the competition is confined to fewer roads, only 6.99 per cent. of the whole Trunk Line Traffic is derived. It would not be difficult to also agree on a division of traffic from these sources.

The terminal points of the Trunk Lines furnish 13.64 per cent., to which Buffalo alone, where there are practically only two competing lines, contributes 9.83 per cent.

Outside of the competitive points enumerated in this statement, 43.36 per cent. of the total traffic is derived from places not enumerated in the first four sections of the statement, and which are classified according to States in Sec. V. The bulk of this traffic must be looked upon in the nature of local traffic, as it is gathered up by the railroads along their lines, and for which there is practically little or no competition. The distribution of this traffic between the Trunk Lines is practically determined by the location of the connections of the Trunk Lines, regardless of the adjustment of rates, as this business is, or can be, controlled locally by the roads to which it is directly tributary.

For example, the traffic of the Pennsylvania Railroad, with its system of connecting roads, owned and controlled by it, comes, one half from other sources than the points of competition named in the three first sections of Statement E. It comes from local points along its lines. Only one-fourth comes from the principal competitive points named in Sec. I., and the other fourth from the smaller competing points as well as from the terminal points. This readily accounts for the constancy in the relative proportion of the business received by the Pennsylvania Railroad, as well as by the other roads, regardless of

rates, whether there is a war of rates or an agreement to maintain rates. The same feature as controlling the distribution of traffic is also strongly marked in the Baltimore and Ohio Railroad. Fifty per cent. of its business is derived from the States of Illinois, Indiana, and Ohio, outside of the competitive points specially enumerated in the statement. Only twenty per cent. is derived from the principal competitive points; about five per cent. from the States west of the Mississippi River, and the rest is gathered up from the smaller points of competition and terminal points. Ninety per cent. of its total business is derived from points east of the Mississippi River and south of Chicago, including Chicago, showing how the location of the road influences the traffic it receives.

Although the Baltimore and Ohio Railroad has the same connections as all the other Trunk Lines with the Northwest, its capacity seems fully taxed by the business from the territory which it immediately serves.

I have given as a probable cause of the reduction of the percentage of the business received by the Baltimore and Ohio Railroad during the present war of rates, the fact that the grain crop was a failure in Southern Illinois, Indiana and Ohio. It will now be clear how much such a local failure of crops must affect the traffic of that road. In other years, when there is a large crop in that section of the country, and a failure in the Northwestern States, the Baltimore and Ohio Railroad would get relatively larger proportion of grain; and therefore no argument should be based upon the actual amount of tonnage carried by each road as to the operation of any particular adjustment of rates, without taking into consideration the sources of the traffic and the conditions under which it is obtained by each road.*

* Although not directly bearing upon the question under consideration, I will here call attention to the interesting fact exhibited in Statement E, bearing upon the Trunk Line competition with the Mississippi River route.

It will be seen from this statement, that 83.81 per cent. of the total Trunk Line traffic is derived from points east of the Mississippi River and south of Chicago, including Chicago. From Wisconsin only 5.72 per cent. is received; from Iowa, 4.79; from Missouri, 5.20; from Arkansas and Texas, etc., 0.48 per cent. This traffic, combined, amounts to 16.19 per cent. of the total Trunk Line traffic.

The traffic that is taken from Chicago and Milwaukee, amounting to 17 per cent. of the whole, comes, no doubt, from the Northwestern States, but is gathered up

The *fifth* and last condition which I will mention that influences the distribution of traffic between the Trunk Lines is, the result of the practice of each competing railroad attaching to itself in the course of time a certain number of shippers, and retaining the same. These shippers become accustomed to the road, and prefer it to others upon equal terms. During a contest, or war of rates, each of the competing roads assures its regular patrons that it will do as well by them as any other road, and thus their business is retained. It is only in this way that the constancy in the relative amount of business carried by a number of roads from competing points, whether rates are maintained or not, can be fully explained.

Take, for example, Chicago. In June, 1879, it was agreed that the Eastbound traffic from Chicago should be divided between the terminal roads centring at that point, in certain proportions. The statistics for the four preceding years were produced, and they revealed the fact that each road had carried, during that time, and under free competition, about the same proportion each year. The new agreement was based upon past experience, with some modifications, which were deemed just, as decided by the Board of Arbitration; and it is now found, after two years, that, during that time, without any artificial effort having been made to change the traffic from one road to another, each of the roads has carried about the proportion of traffic that was assigned to it. During the two years, 4,700,000 tons were carried from Chicago, and only 56,000 tons, or 1.2 per cent., would have had to be transferred between the roads in order to carry out the agreed division. Rates were not strictly maintained during this time, but the distribution of traffic being satisfactory, the question of any nice adjustment of rates loses its importance.

by the roads whose interests are centred at Chicago, and can hardly be diverted to the Mississippi River route. The 16.19 per cent. from States west of Chicago and the Mississippi River, which is sent direct to the seaboard, is also brought to Chicago and St. Louis by roads whose interests are adverse to the Mississippi River route, and which will seek to retain this traffic in competition with that route.

Attention is also called to Statement F, showing the distribution of Westbound traffic from seaboard cities. Although it has no bearing upon the subject of the adjustment of terminal rates, a comparison with Statement E may be of some interest.

The proper plan, as suggested by these facts which I have presented in the foregoing, is: To distribute the traffic at its source, and then let it take its natural course to the seaboard. It is much easier to determine the relative amount of business that should be carried by each of the Trunk Lines, from the points at which the traffic originates, than to determine what shall be the amount of traffic to be delivered at each of the seaboard cities. The latter operation could be compared with an effort to determine the amount of water that a river shall discharge into the ocean, without regard to its source and the extent of territory it drains. The great Trunk Lines are nothing but great arteries of commerce like rivers; only, with this difference, the rivers never run across each other, the territory from which they draw their supplies is distinct and well defined. Where railroads cross each other or a number terminate at the same point, it is only necessary that special agreements should be made at these points as to the relative amount of traffic to be carried by each competing road, and then the territory that each railroad company is to serve would be practically defined. It is much easier to make these divisions at the point of origin of the traffic than to pre-determine, without regard to the source and origin, the amount of traffic to be delivered at the termini of the Trunk Lines, or to attempt by the establishment of arbitrary transportation rates to distribute the traffic between the competing roads or competing cities. In fact, the latter is utterly impossible, and all attempts that are made in that direction must fail.

The expensive contest that is now being waged over the question of a nice adjustment of rates, by which is to be determined the distribution of the traffic between the seaboard cities, is, therefore, more of a theoretical than a practical nature. No agreement that runs counter to the natural distribution under the conditions which I have commented upon, can ever be carried out. The contest for the competitive traffic should be settled at its source, and the traffic should then be allowed to flow to the seaboard, uninfluenced by arbitrary rates.

All these considerations may, at first sight, seem irrelevant to the subject of determining the adjustment of transportation rates over the Trunk Lines to the seaboard cities; but they have a very important bearing upon the question: What is

a proper distribution of the competitive traffic? which question must be answered before proceeding to the second part of the inquiry: How can rates be practically adjusted so as not to interfere with the proper distribution of traffic, as conditioned by the natural and legitimate elements of competition?

GENERAL PRINCIPLES INVOLVED IN THE ADJUSTMENT OF
TRANSPORTATION RATES.

The principle is generally recognized, that the rates between the same competitive points *via* different competing routes, should be the same for the same service performed, and that the rates between different points of competition should be based upon their relative distance. This principle is carried out in the whole territory in which the roads represented on the Joint Executive Committee are located. The rates between New York and Western competing points, say Chicago, St. Louis and Cincinnati, are based upon the relative distances of these cities from New York. The same principle was recognized in the tariff of April 13, 1876, when the rates from common points West to seaboard cities were based upon these relative distances; but this tariff was never adhered to. The *pro rata* principle, correct as it is, abstractly considered, cannot be applied in all cases. Other principles control the adjustment of rates, and have to be recognized, and they are frequently in direct conflict with the *pro rata* principle, and the most powerful factor, which overrides all other considerations, is competition. If there was no competition for the export traffic between the Trunk Lines or seaboard cities, the *pro rata* principle applied to domestic traffic would work satisfactorily to all parties. But as the through rates through the various cities to foreign destination must be made with a view to meet competition in foreign markets, that is, must be substantially the same *via* all routes, and the Trunk Lines are simply links in the through route between the common points of competition in this and foreign countries, the proportion of the through rates, or that portion of it which the Trunk Lines can charge, must be determined with regard to the competition in export trade, and that proportion may and does greatly differ from

the domestic rate established upon a *pro rata* principle. Further complication arises from the fact, that over one link in the through route—over the ocean—the rates cannot be predetermined or cannot be adjusted by agreement, but are always open and always changing.

The difficulties of the adjustment of rates to the seaboard cities arise, therefore, from the dual position of the Trunk Lines as carriers of domestic traffic to the seaboard cities and as competitors for through European trade, having the ocean as a link in the through route. The agreement of December 18, 1876, which was the result of long and careful deliberation by Trunk Line officers, (see testimony of Mr. George R. Blanchard before the "Special Railroad Committee of the New York Assembly," from page 3155 to page 3156,) recognizes the correct principles upon which the adjustment of rates should be based. It provides that,

"In order to settle all questions now at issue between them (the Trunk Lines) with regard to rates to and from competitive points beyond the Western termini of their roads, and to and from competitive points East of their Eastern termini, and to establish equal rates to and from the seaboard upon all competitive business, and adjust upon an equitable basis business purely local, do agree as follows :

"*First*.— * * * * that all competitive freight shipped on through bills of lading to Europe * * * * shall be at the same through rate to destination, whether through the cities of Baltimore, Philadelphia, New York, Boston or Portland.

"*Second*.—That all freight shipped to Baltimore, Philadelphia and New York, and afterwards exported, shall be deemed competitive.

"*Third*.—That on freight from all competitive points in the West and Northwest to Baltimore, Philadelphia and New York, intended for local use and consumption, the rates shall be thirteen (13) per cent. less to Baltimore, and ten (10) per cent. less to Philadelphia, than to New York from Chicago; and from Southwestern points to Baltimore fourteen (14) per cent. less, and to Philadelphia nine (9) per cent. less than to New York."

This agreement is, however, only of a declaratory character. It establishes the correct principle upon which rates should be adjusted, and merely shows what it would be desirable to accomplish. It was never executed, and can never be, for the following reason: It is impracticable to determine at any one time the lowest ocean rate at the several ports and establish in connection with it the same through rate through all ports.

Several attempts were made to carry out the part of the agreement contemplating equal rates on all shipments under through bills of lading. A committee of foreign freight agents was appointed in 1876, and again in 1880, to receive daily the quotations of ocean rates from all ports, and to give the lowest quotations jointly to all Western soliciting agents, upon which they were to establish the same through rates through the different ports. But the ocean rates change from day to day, even from hour to hour, and in order to make the same through rates through all ports at the same time, it would be necessary that the rates once established should at least be maintained for some period of time regardless of these changes. This would not be satisfactory to the exporter, because, should the ocean rates fall, after through rates had been established, he could not take advantage of it, and would have to pay higher rates than he could secure on his own account.

It was for this reason that the Chambers of Commerce of a number of the western cities, who feared that the railroads intended to secure control of the ocean rates, entered a violent protest when it was attempted in March, 1880, to carry out the plan (See Circular No. 153, Joint Executive Committee) of making the through rates the same *via* all ports. To the railroads this plan is equally objectionable. They would have to adopt and guarantee for a certain period of time certain ocean rates, and in case of an increase in the ocean rates, they would have to reduce their land rates accordingly. The ocean lines would not be slow to avail themselves of this feature, and the railroads would have to assume all the risk of, and thereby destroy the competition between the ocean carriers, which, if left free, might be relied upon to adjust ocean rates to the inland rates, and to bring about the desired equalization without any effort on the part of the railroads.

In the ordinary course of competition between the ocean carriers, it is certainly reasonable to expect that the rates from Baltimore and Philadelphia should always be greater than from New York. The ocean routes are much longer than from New York; the length of time and cost of transportation from these ports must necessarily be greater on that account, not to mention the great advantages New York possesses in controlling return cargoes, and its larger amount of passenger and emi-

grant traffic and other commercial advantages. Under ordinary circumstances, therefore, according to the laws of free competition, the rates from New York should always be lower. But should it be found that this is not the case, it would be strong proof that the competition of Philadelphia and Baltimore is not felt by the large shipping interest identified with New York, or that there exist other disturbing causes. However this may be, any attempt by the railroads to interfere with the free competition of the ocean carriers from the different cities, would result in greater evils than the evils which they seek to remedy.

The difficulties encountered, therefore, in attempting to make the same rates at the same time through all ports on through bills of lading, based on the lowest ocean rate from any port, must be considered as insurmountable from the very nature of the transaction.

The difficulties of dealing with the export business shipped to the seaboard under domestic bills of lading are equally as great. Statement C shows that the grain and flour traffic is 72.58 per cent. of the total business carried by the four trunk lines to the seaboard and including provisions, nearly 85 per cent. Statement A shows that 80 per cent. of the receipts of flour and grain at New York are for export, from Philadelphia, 64.6 per cent. and from Baltimore, 84 per cent. Much the larger portion of the grain carried by the Trunk Lines to the seaboard is therefore export grain.

The grain shipments to Philadelphia, for 1880, were 49,000,000 bushels, of which 32,000,000 bushels were exported, leaving only 17,000,000 bushels for home consumption. The shipments under through bills of lading from Philadelphia (see Statement A) were 7.3 per cent. It follows, that 58 per cent. of the total receipts at Philadelphia were shipped there under domestic bills of lading and afterwards exported.

At New York the rail receipts were 95,000,000 bushels, 80 per cent. of which was exported, and of this only 18.7 per cent. was exported under through bills of lading, leaving 61.3 per cent. of the total amount of grain brought by the Trunk Lines to New York shipped under domestic bills of lading that was afterwards exported. A similar condition of affairs is shown to have existed at Baltimore.

This shows the difficulty of readjusting the inland rates after shipments have been made under domestic bills of lading, so that the through rates would be the same *via* all competing seaboard cities, and at the same time the lowest that is made *via* any of these cities: and the conclusion must be formed that the only practical plan to carry out as near as may be possible the principles recognized as correct in the contract of December 18, 1876, is to agree upon fixed inland rates upon the whole grain traffic, domestic and export, and to determine the through rates by adding the ocean rates, whatever they may be, from time to time, from the different cities to points of destination, and that the adjustment of the inland rates to the seaboard must be made more with the view to the export trade than to the domestic traffic.

The agreement of April 5, 1877, recognizes the principle that fixed differences in rates should be adopted, based upon the prevailing ocean rates. It is said that a difference of three cents in favor of Baltimore and two cents in favor of Philadelphia, corresponded at that time with the increased cost of ocean carriage from those ports, but that changes have since taken place in the ocean rates which make a readjustment of differentials necessary. It becomes, therefore, necessary to examine the facts, to ascertain what were the ocean rates, as well as the through rates *via* the different cities since this agreement was made, and what changes have taken place.

AVERAGE OCEAN RATES DURING THE LAST FOUR YEARS,
AND COMPARATIVE ESTIMATES OF COST OF TRANS-
PORTATION TO AND THROUGH SEABOARD CITIES
UNDER PREVAILING RATES IN 1880.

Statement G has been prepared to show the quotations of ocean rates during the last four years, and from it it appears that the ocean rates *via* steam from Philadelphia to Liverpool, which were four cents higher than from New York in 1877, were only 1.7 cents higher in 1880, and from Baltimore they were 4.6 cents higher in 1877, and 2.6 cents higher in 1880. But the rates *via* sail (to Cork, for orders) have not changed to so great an extent. They were more nearly the same than steam from all points in 1877, and remain so. At Philadelphia, in 1877, they were 0.2 cents less per hundred

pounds, and in 1880, 0.7 cents less than from New York; and at Baltimore 0.3 cents higher in 1877, and in 1880, 0.5 cents higher than from New York.

To ascertain the average rate from the three ports, the relative quantities exported by steam and sail have to be taken into consideration. Statement K contains an estimate of the average rate during the whole of the year 1880, and also during the first and last six months of the year. The average ocean rate during the year, and the differences in the rates between Philadelphia and Baltimore and New York, were as follows:

AVERAGE OCEAN RATES, STEAM AND SAIL, PER HUNDRED POUNDS IN 1880.

From New York.	Philadelphia.	Baltimore.
22.81c.	23.79c.	24.71c.
Higher than from New York,	0.98c.	1.90c.

It is an important point in the consideration of this whole subject, whether it is proper and right that the actual differences in the ocean rates during a year from the different ports should be taken as the exact differences in the inland rail rates, with a view of making the through rates the same through all ports. If this point were conceded, the problem would seem to be easily solved, by ascertaining the differences as above, and making the inland rates as much lower as the ocean rates are higher. But this solution is really not quite so simple as it at first sight appears.

First.—The changes in ocean rates cannot be predetermined. The serious question arises, for what particular periods in the past shall the actual rates be taken as a guide, and for what particular periods in the future? From Statement G, it appears that great changes have taken place relatively in the ocean rates from the three cities since 1877. Are the differences in ocean rates for one year to be taken as the differences in inland rail rates for the succeeding year before it can be known what they actually will be? Even during certain periods in the same year there are marked differences in the ocean rates. For the last six months of 1880 (see Statement K), the rates from Philadelphia were only 0.26c. higher than from New York, while in the first six months they were 1.71 cents higher. From Baltimore they were 1.54c. higher than from New York in the last six months of the year, while during the first six months they were 2.30 cents higher. No one can antic-

ipate the differences in ocean rates during the whole, or during the different seasons of the coming year. If differences in ocean rates upon which inland rates were based were less than the actual difference, it would be unjust to New York; if more, it would be unjust to Philadelphia and Baltimore; and thus the distribution of traffic between competing roads and competing cities, if sought to be regulated solely by the adjustment of inland rates upon the differences in ocean rates, for fixed periods of time, would be at best a mere matter of guess work. The average rates during a whole year may never prevail at any one time, but the actual, and not the average, which is a mere hypothetical rate, control the traffic at the time.

Second.—The quotations, as reported in these statements, are only of rates to Liverpool by steamer, and to Cork, for orders, by sail. They therefore apply only to a small proportion of the export business. To what extent appears from Statement J, which shows the destination of the export grain from New York, Philadelphia and Baltimore. The grain destined to Liverpool from New York (about 11,000,000 bushels) constitutes only 10 per cent. of the total export grain from New York, while from Baltimore to the same destination 3,500,000 were sent, constituting only $6\frac{1}{2}$ per cent. of its total exports. The grain shipments to Cork, for orders, by sail from New York, were 19,000,000 bushels of the total exports, or 17.4 per cent., and from Baltimore to Cork about 9,000,000 bushels, the same percentage of the total shipments as from New York. The rates are, therefore, practically, only ascertained for about 27 per cent. of the New York, and 24 per cent. of the Baltimore exports.

The question arises: Is it just and proper to take the rates on so small a portion of the competitive traffic as the standard for the whole export grain? It may be assumed, perhaps, that the rates to Liverpool by steam and to Cork by sail, guide, in a measure, the rates to all ports in Great Britain; in that case they apply to 57 per cent. of the export grain trade from New York, to 49 per cent. from Philadelphia, and to 50 per cent. from Baltimore.

I have not been able to procure the ocean rates charged to other countries and to ascertain what are the differences from different ports; and whether there are any settled relations between

those rates and the rates to Liverpool and Cork, or whether they are made accidentally from day to day as there may be a supply of tonnage in the American ports for export to these countries. All this information should be had, in order to determine definitely to what extent it is proper and right that the quotation of Liverpool and Cork rates should be made absolutely the basis of the difference in inland rates over the Trunk Lines for the whole export grain.*

In view of the facts just presented: the instability of ocean rates and the want of exact information in regard to the rates to all points of competition, the impossibility of determining the exact differences in the rates that may prevail at any one period, it must be conceded that even if the principle to adjust inland rail rates on the exact basis of differences in ocean rates were adopted as correct, it would be impracticable to carry it into practice with justice to all parties. To attempt it may work injustice to those who advocate it as well as to those who oppose it. It would be a mere accident if the interests of all parties were guarded alike under this plan of adjusting rates.

THE EFFECT OF THE COMPETITION BETWEEN THE GRAIN MARKETS UPON RELATIVE ADJUSTMENT OF RAIL RATES.

The adjustment of railroad transportation rates has, so far, been considered from the standpoint of the railroad companies. The question at issue concerns in an equal degree the commercial communities competing with each other for the export

* Statement J possesses some interest, as showing the relation of the different seaboard cities to the grain trade with foreign countries. It shows the percentage of total grain exported from the three cities to the various countries, and the proportion this constitutes of each city's actual export. For example: New York sends 57 per cent. of its total export grain to Great Britain, which forms 61 per cent. of the total received by Great Britain from these three ports; Philadelphia sends 48.7 per cent. of its export grain, which constitutes only 14 per cent. of the total received from these three ports; Baltimore sends one-half of its export grain, which constitutes 25 per cent. of the total received from these three ports.

To Germany, New York contributed 65 per cent., Philadelphia 17.4, and Baltimore 17.6. To France, New York contributed 32.1 per cent., Philadelphia 16.9 per cent., and Baltimore 51 per cent.

grain trade. It is, therefore, necessary to consider it from the broader standpoint of the merchants or the commercial communities engaged in the trade. The railroad companies, in the settlement of this question, must necessarily represent not only their particular transportation interests, but also the interests of the cities with which they are closely allied; in fact, with which their interests are identical.

This introduces a new element, still further complicating this already greatly complicated problem. The mere addition of the ocean rates to the rail rates, making the same rates through all ports upon traffic carried to the seaboard by the railroads, even if it were practicable, is not sufficient to solve the problem. There are other means of transportation, by which export grain is brought to the seaboard, and there are also conditions of a commercial nature, which necessarily affect the competition between the different markets in the same trade. It is not merely a question of railroad transportation rates, although that is, no doubt, a very important element.

Assume, for the sake of illustration, that one of the ports possessed great commercial advantages, which, with equal transportation rates, would give it a decided preference, to such an extent that the whole export business would seek this port. Could it be expected that the other ports, less advantageously situated, and the railroads identified with them, would be willing to allow themselves to be debarred from participating in the commerce of the world; that they would allow their railroad facilities, their warehouses and elevators, their capital and investments to lay idle, out of mere respect for the abstract principle that transportation rates to and through all ports must be the same, regardless of any and all other considerations that control trade and commerce?

That New York possesses great commercial advantages, such as I have mentioned heretofore as influencing the distribution of competitive traffic (see page 17 of this report), is generally admitted. One of the principal grain merchants of New York testified before the "Special Committee on Railroads" of the New York Assembly (page 504), that these advantages were worth to the grain trade of New York one cent per hundred pounds. This, of course, is a mere individual judgment, and its correctness cannot be mathematically demonstrated; but, that these advantages are worth something, cannot be denied.

Some light is thrown upon this subject by the experience of Boston as a grain market. While the inland rates to Boston are nominally the same as to New York (there are reasons to suppose they are even lower), the ocean rates from Boston are, as a general rule, much lower than from New York, thus making the through rates through Boston less than through New York; and yet, notwithstanding these conditions, which have prevailed for years—notwithstanding that the railroad and terminal facilities at Boston have of late years been greatly improved—we find that the grain receipts at Boston have remained relatively the same, during the last twenty years. Boston has only kept pace with the other ports, notwithstanding lower transportation rates through that port. In 1860 it received 10.4 per cent., or about nine million bushels; in 1880, 10.88 per cent. of grain, or thirty-seven million bushels; showing that Boston, as a grain market, must labor under some disadvantages, whatever they may be, that make lower rail rates through that port to foreign ports necessary, in order to enable it to retain a share of the grain trade. Whether these disadvantages are purely of a commercial nature, or whether the shipping facilities and storage capacity of the port are such as to limit its capacity to transact business, the facts stated are sufficient to indicate that Boston could not maintain its proportional share of the grain trade, at the same through rates as are made on rail shipments through New York.

Besides the commercial advantages of New York, that may make these lower rates through Boston and other ports necessary, and which cannot be readily estimated in dollars and cents, it possesses in the canal advantages of cheaper transportation, of which some more definite estimate can be formed. The Erie Canal brings to New York, in the seven months, during which it is generally in use, a large proportion of the total grain receipts at this port. In 1880, it brought sixty-nine million bushels, or 40 per cent. of the New York receipts, or 20 per cent. of the total receipts at the five Atlantic ports, as shown in Statement D. It makes no difference to the merchants in Boston, Philadelphia and Baltimore, competing in the grain trade, how New York receives its grain, whether by canal or rail; they can only consider the cost at which the grain is brought to New York, regardless of the method. If they cannot secure transportation as cheaply, they

may be debarred from competing with New York. In this view of the case, the cost of transporting grain to New York by canal as well as by rail becomes a factor in the adjustment of rail rates to other competing cities, which have not the advantage of water transportation.

The effect of the cheaper canal transportation upon the average cost of transportation to New York, and relatively to other cities, will appear from Statement L, which gives an estimate of the cost of transporting grain to and through New York, Philadelphia or Baltimore *via* all routes,* including, also, the cost of ocean transportation from these cities, based upon the statistics of 1880. The following is the result:

DURING THE WHOLE YEAR OF 1880.

	New York.	Philad'lphia.	Baltimore.
Average Inland Rates per 100 lbs., allowing agreed differences	25.69c.	27.27c.	26.43c.
Less to New York	—	1.58c.	0.74c.
Less to New York at even rail rates from all cities.....	—	3.58c.	3.74c.

This statement shows that in case rail rates had been the same in 1880 to the three cities, grain could have been delivered at New York for 3.58 cents less per hundred pounds than to Philadelphia, and 3.74 cents less than to Baltimore; and allowing differences of two and three cents less to Philadelphia and Baltimore, respectively, New York still had the advantage in rates of 1.58 cents over Philadelphia, and 0.74 cents over Baltimore.

Adding the average ocean rates for the year 1880 to the cost of inland carriage, the total cost (on the basis of Chicago to Liverpool by steam, and Cork by sail, for orders) has been as follows:

	N. Y.	Phila.	Balt.
Through rate, allowing differentials.....	48.50c.	51.06c.	51.14c.
Through at even rail rates.....	48.50c.	53.06c.	54.14c.
Difference in favor of N. Y., allowing differentials..	—	2.56c.	2.64c.
Difference in favor of N. Y., at even rail rates....	—	4.56c.	5.64c.

* No estimate can be made of the cost of transportation through Boston, as the statistics of grain carried there by the Grand Trunk Railway are not known.

This represents the results of the whole year's operation; but as the canal competition only exists during the navigable season, an estimate has been made of the average rate during that season, and also during the period when navigation is closed. The following are the results:

	N. Y.	Phila.	Balt.
Average inland rate per 100 pounds, allowing differentials.	24.21c.	25.07c.	24.14c.
Difference in favor of N. Y. over Phila.	—	0.86c.	—
Difference in favor of Baltimore over N. Y.	—	—	0.07c.
Difference in favor of N. Y., at even rail rates.	—	2.86c.	2.93c.
Total through rate, adding the ocean rate, during the last six months of the year, allowing differentials.	49.82c.	50.94c.	51.29c.
In favor of N. Y., allowing differentials.	—	1.12c.	1.47c.
In favor of N. Y., at even rail rates.	—	3.12c.	4.47c.

After allowing a difference in rates of two and three cents to Philadelphia and Baltimore, New York had the advantage in rates of 1.12 cents over Philadelphia, and 1.47 cents over Baltimore, during the season of navigation. This results from the lower cost of transportation by canal.

During the time of closed navigation, when grain was transported only by rail to the three cities, the average ocean rates (see Statement K) were as follows:

From.....	New York.....	Philadelphia.....	Baltimore.
	20.01c.	21.72c.	22.31c.
In favor of N. Y.....	—	1.71c.	2.30c.

Allowing the differences in rail rates of two cents to Philadelphia and three cents to Baltimore, the average through rates on export grain during the season of closed navigation were:

In favor of Philadelphia	0.29c.
In favor of Baltimore.....	0.70c.

While during the navigable season they were:

In favor of New York over Philadelphia	1.12c.
In favor of New York over Baltimore	1.47c.

These are the facts furnished by the experience of 1880 in regard to transportation rates on export grain, as bearing upon the general competition between the cities apart from the special railroad interest.

To what extent the advantages in rates in favor of New York during the season of navigation (they were less 1.12 cents than *via* Philadelphia, and 1.47 cents less than *via* Baltimore) are counterbalanced by the slower method of canal transportation—whether this is or is not a disadvantage, the other ports receiving grain by rail during the whole year, or to what extent the difference in rates in favor of Baltimore and Philadelphia during the close of the canal (they were 0.29 cents and 0.70 cents less per 100 lbs. respectively *via* these two cities), are counterbalanced by the commercial advantages of New York, are questions that must be left to individual judgment, as no arithmetical estimate can be made.

Upon the whole, looking at the results during each of the two periods of the year (the average of the whole year cannot be used as a criterion), it would seem that the differences in rates agreed upon on April 5, 1877, are certainly a remarkably close approximation to the actual results of the year 1880, if equality of through rates through all ports upon the whole export grain is considered the end to be attained.

OCEAN RATES ADJUST THEMSELVES TO INLAND RATES.

The near approach to an equalization of through rates through all ports, including the grain brought by canal to New York during all seasons of the year, is not altogether accidental. There is a compensating principle at work in adjusting ocean rates to the inland rates, which has the natural tendency to equalize through rates without the aid of the railroads. The law upon which this principle works seems to be fully revealed by the facts recorded in the accompanying statements, a study of which will throw a great deal of light upon the whole question, and greatly simplify its solution.

During the first and second six months of the year 1880, corresponding nearly with the periods of closed and open navigation, the average ocean rates, per 100 lbs., were as follows:

From	New York.	Philadelphia.	Baltimore.
During the first six months of 1880.	20.01c.	21.72c.	22.31c.
During the second six months of 1880.	25.61c.	25.87c.	27.15c.
Increase in the second six months.	5.60c.	4.15c.	4.84c.

With the lowering of the inland rates *via* rail and canal, the ocean rates from the three cities advanced, and were higher during the season of navigation than they were during the season of closed navigation. This increase in the ocean rates had the effect of making the through rates from Western points to European points through all the cities (taking the inland and ocean rates together), very nearly the same during the season of navigation as the average of the whole year, although the inland rates were much lower during the season of navigation.

The through Rates were from.....	New York.	Philadelphia.	Baltimore.
During season of navigation.....	49.82c.	50.94c.	51.29c.
Average during the year.....	48.50c.	51.06c.	51.14c.

This shows that the reduction in the inland rates during the summer months via canal and rail benefited only the ocean carriers (a fact that should be kept in view, in considering the wisdom of the contemplated abolition of tolls on the New York State canal). But a more important fact is brought to light by these figures, viz.: That the ocean rates advanced a great deal more during the season of navigation from New York than they did from the other two cities. The advance in New York was 5.60 cents, Philadelphia 4.15 cents, Baltimore 4.84 cents per 100 pounds.

The greater increase from New York made the difference in the ocean rates between the three ports during the season of navigation much less.

	Philadelphia.	Baltimore.
They were during the first six months of 1880.....	1.71c.	2.30c.
During the last six months.....	0.26c.	1.54c.

Showing plainly that either the reduced rates of inland transportation by canal (the canal rates were 5.3 cents less than the

all rail rates) or the greater demand for tonnage on account of the increased receipts of grain at New York, caused a greater increase in the ocean rates from New York than from the other cities, and more nearly equalized the through rates through these cities, still giving to New York the advantage of 1.12 cents over Philadelphia and 1.47 cents over Baltimore.

It is of course impossible to state to which of these two causes the increased ocean rates must be ascribed; but, in either case, it is due to the fact that New York possesses a canal and cheaper transportation facilities than the other cities.

It is not positively known that the differences of two and three cents were fully maintained during 1880. If it be true, as it is stated, that concessions were made by the New York roads, it might explain the fact that the ocean rates at Baltimore were during the winter season only 2.3 cents higher, corresponding to a probable reduction of 0.7 cents per one hundred pounds in the inland rate to New York, or reduced elevator charges. This, of course, is a mere conjecture. The fact, however, seems to be established, that the ocean rates adapt themselves to the inland rates, during navigation, when lower rates prevail to New York, as well as during closed navigation, when lower inland rates prevail to Philadelphia and Baltimore.

These conclusions, however, are based only upon the experience of the year 1880. But, as during that year the agreed rates were more nearly maintained than in any previous year, the results obtained may be considered more reliable than in other years, during which violent changes in rates took place, and no clear knowledge of the rates actually charged during all periods can be obtained.

But the year 1880 is not the only year in which the facts just mentioned were developed. During the first four months of 1881, when inland rates were still maintained, the ocean rates from Baltimore were 2.74 higher than from New York (see Statement II), while during the succeeding seven months they were only 0.3 cents higher. The latter were the differences in ocean rates during the railroad war, when probably there was a nearer approach to equality in the inland rates *via* all routes to all cities (the canal rates being nearly the same as the rail rates), showing that whether differentials are maintained or not,

free ocean competition acts, at least in a great measure, as an equalizer of the through rates.

From Statement G, it also appears that the difference in ocean rates between New York and Baltimore followed the same law in previous years. The differences in favor of New York, in rates to Liverpool by steam, were:

First six months of 1877, 5.9c.	Second six months, 3.3c.
" " " " 1878, 4.7c.	" " " " 2.7c.
" " " " 1879, 3.0c.	" " " " 1.9c.

Sail rates to Cork for orders, from Baltimore, were:

First six months of 1877, 1.7c. more.	Second six months of 1877, 1.0c. less.
" " " " 1879, 0.8c. "	" " " " 1879, 0.7c. "

The year 1878 was an abnormal year, as the rail and canal rates during the first half of the year were lower than during the last half; consequently, we see from Statement G, that the ocean rates were higher during the first six months than during the last six.

There were by Steam to Liverpool from.....	N. Y.	Phila.	Balt.
During the first six months of 1878.....	27.3c.	29.7c.	32.0c.
During the second six months of 1878.....	23.0c.	26.7c.	25.7c.

Although apparently these results are contradictory to the general rule, according to which ocean rates should be lower in the winter season than in the summer, they really establish its correctness.

Besides the evidence of these statistics, we have the testimony before the "Special Railroad Committee" of the New York Assembly, to the same effect. Mr. William Volkens, a member of one of the largest shipping firms in the country, says, on page 665:

"*Answer.*—Grain freights from Baltimore to European ports are generally from 3d. to 6d. (1 25 cents to 2.5 cents. per 100 lbs.) higher; I have known instances of 9d. to a shilling (3.75 to 5 cents per 100 lbs.) higher than from New York; but now in the summer time, when the canal brings so much more stuff to New York, the rates are about the same as from Baltimore.

"*Question.*—In the summer the rates from Baltimore are about the same as from New York?

"*Answer.*—Not always, but sometimes; frequently in the height of summer."

Mr. David Bingham, in his answer to the question, how much higher the ocean rates are from Baltimore than from New York (page 702) says:

"By steam about a penny a bushel (3.3 cents per 100 lbs.), and perhaps a penny half-penny a quarter (0.6 cents per 100 lbs.) by sail, but just now (June 23, 1879,) the rates are lower in Baltimore than they are in New York, owing to the increased quantity of grain coming this way."

There can therefore be no doubt that the cheaper canal transportation to New York, either directly or through the consequent increase in grain receipts at New York, affects the differences in ocean rates from the different cities, and in an adjustment of rail rates to these different cities, if it is to be based upon the differences in the prevailing ocean rates, the influence of the canal as a competing element cannot be ignored. If the difference in ocean rates from the competing cities are wiped out by the canal influence in directing the grain to New York, as it appears to be the case, it does not follow that the differences in the inland rail rates to these cities should also be wiped out. The very conditions that give to New York the preference in inland rates, as well as establish it as the first grain market of the country, cannot justly be assigned as a reason for depriving Baltimore and Philadelphia of such advantages as they may possess in a shorter and cheaper inland carriage.

The estimates of the average cost of transportation, submitted in Statement I, are based upon the rates that actually prevailed during the year 1880, by all routes, including the canal, and are believed to be substantially correct. But for the present purpose it does not matter whether they are exactly correct or not, as I merely wish to use them as an illustration of the facts and principles involved in this problem. These estimates show that the average cost of transporting grain to New York during the navigable season, was 24.21 cents per 100 pounds, and to Baltimore 24.14 cents, assuming that the differences in rate of 3 cents in favor of Baltimore had been strictly maintained. The all-rail rate to New York is estimated at 27.5 cents (the nominal tariff was 30 cents). Assuming, for the sake of argument, that the ocean rates were the same from both ports, and that the Baltimore merchants would have had to pay the same

all-rail rate as to New York, 27.5 cents, when the average cost to New York merchants, including canal transportation, during the season of navigation, did not exceed 24.21 cents per hundred pounds, the question may well be asked: Whether Baltimore could under such conditions have secured a share of the grain trade? Considering further, that the average ocean rate by steam and sail during the navigable season of 1880, was 1.54 cents higher, and consequently the through rate *via* Baltimore 4.47 cents higher than *via* New York, it could hardly be expected that with equal inland rates Baltimore could have competed with New York in the grain market.

The principle, that the through rates from common points in the West to common points in Europe, should be the same *via* all ports, which is insisted upon by New York merchants as correct, would certainly not have been carried out. There can hardly be any doubt that in the adjustment of transportation rates, the effect of the lower rates of transportation *via* canal to New York upon the relative price of grain in the different markets, must be taken into consideration by the merchants in the competing cities.

But a more difficult question arises between the railroad companies themselves. The adjustment of the rail rates to Baltimore and Philadelphia upon the basis of the average rates to New York, including the canal rates, necessarily result in lower rail rates to Philadelphia and Baltimore than to New York. The question may well be asked: "If the New York railroads can carry grain in competition with the canal, at certain increased rates over the canal rates, why cannot the Philadelphia and Baltimore roads do the same, assuming ocean rates to be the same from all ports?"

Looking upon the subject simply in this light, disregarding all other facts which have a bearing upon the adjustment of competitive rates, the New York roads have a right to object to differentials in favor of Baltimore and Philadelphia.

But is it possible to deal with this question as simply one of railroad competition, when it is complicated with so many other conditions that act and react upon it, and which in the practical solution of the problem cannot be ignored?

The New York railroads must, in the first place, adjust their rates with the view of directly meeting the canal competition. Experience shows that they can charge more than the routes

via lake and canal, including the insurance on the water routes. Were the New York railroads to attempt to make their charges the same, it could only lead to ruinous competition, which would make the business unprofitable, both to the railroads and to the canal, and practically wipe out the advantages of the canal to New York.

We find that during the navigable season of 1880, when rail rates were kept unusually high, (5.3 cents higher than by lake and canal, 2.25 cents higher than by lake and rail) the railroads were enabled to carry 46 per cent. of the grain to New York—the canal carrying 54 per cent.; while in 1876, during the war of rates, when rail rates were very low—perhaps as low as the canal rates, if not lower—the railroads carried 65 per cent., and the canal only 35 per cent. But the total receipts at New York, by all routes, were less during that year than during any previous year since 1865. It is therefore evident that it is the true policy of the New York roads to keep their rail rates sufficiently above the canal rates, to secure for themselves a reasonable remuneration for their services, and at the same time to secure to New York some of the advantages of canal transportation.

Having adjusted the all-rail rates to New York with this end in view, the question next arises: What shall be the rail rates to Philadelphia, Baltimore, and Boston, which will enable these cities to secure a reasonable share of the traffic, proportionate with their facilities of transportation and their commercial ability to transact the business? The transportation rates to the other cities must, of course, be adjusted to meet the combined influence of rail and water transportation upon the price of grain in New York. No mathematical solution of this question is possible, but this conclusion may be fairly drawn from these considerations: Assuming the ocean rates to be the same from all cities, then, if the railroads were to charge the same inland rail rates to Baltimore and Philadelphia as are charged to New York, it would leave the full advantage of the lower canal rates to New York, and would wipe out entirely the natural advantages which Baltimore and Philadelphia possess in the shorter and cheaper railroad transportation to the seaboard.

In connection, however, with this question, it must also be considered that the cheaper rates of canal transportation are

due to the inferiority of the services rendered by the canal, and for this reason certain allowances should be made for the greater length of time, and such other disadvantages as may exist, on canal transportation, as compared with transportation by rail. It would be difficult to estimate these disadvantages in dollars and cents, as it is not unfrequently the case that shippers prefer canal to rail transportation, the additional time required, during which storage room is provided for the grain, is sometimes an advantage. Grain that is brought by the canal to New York at the rate of five cents less per hundred pounds than by rail, after it has been stored in a warehouse, awaiting export, is certainly worth as much in the market as grain that has been carried to New York by rail.

These are all subjects for consideration, and I merely wish to call attention to them, without, of course, being able—and I suppose no man is able—to fix, precisely, in dollars and cents, the advantages or disadvantages to New York of canal transportation as compared with all-rail transportation.

GENERAL CONCLUSIONS.

I have endeavored to examine carefully the nature of the disagreement between the Trunk Lines upon the question of differences in transportation rates to the seaboard cities, in the hope that the conflicting views, each of which may be correct in itself, might be reconciled, and the subject could be dealt with from some general principles, upon which all parties could agree. The conclusions at which I arrive are the following :

The claim of the Baltimore and Ohio and Pennsylvania Railroad Companies for lower inland rail rates is based upon the general principle that the transportation charges should be regulated, at least to some degree, in accordance with the length of the competing routes. While this is perfectly correct so far as the domestic traffic is concerned, it will be admitted that in regard to all competitive traffic the distance forms no element. The lowest through rates established by any one

competing route establishes the through rates by all others, regardless of distance.

If it were true that grain could be transported from common points west to common points in Europe at lower total rates through Baltimore than through New York, assuming that all routes possess the same advantages to the shipper, and that the ocean rates are the same from all ports, the position of the Baltimore and Philadelphia railroads that they must have lower inland rates, simply because their inland routes are shorter, could not be maintained, no matter how short their routes might be.

This general principle was fully recognized in the convention of December, 1876, and in the agreement of December 18, 1876. It is difficult to see how any other rule could lead to any other result than continual warfare between competing transportation lines.

On the other hand, the New York railroads, while insisting upon the practical enforcement of this principle, do not go far enough in its application. They intend to restrict it simply to the competition between the railroads, disregarding other transportation routes affecting the competition between the commercial communities. But if the New York railroads insist that the railroad competition alone shall be taken into account, the claim of the Philadelphia and Baltimore railroads for lower transportation charges on account of their shorter and cheaper routes to the ocean, would thereby be justified. The principle of adjusting rates with the view of enabling the different cities to compete with each other upon equal footing, must either be adopted throughout, or need not to be adopted at all.

The only common ground that all parties to this contest can occupy, would seem to be that the through rates on all competitive business should be made alike, or as nearly so as may be practicable, upon the whole competitive traffic, and not only upon the railroad traffic. This principle being once acknowledged, then the question would arise as to the practical adjustment of rates upon that basis. If it were true

that the ocean rates from all the ports were the same, then there should be no objection that the average inland rates by all routes (water and rail) should also be the same, making allowance, of course, for the disadvantages of routes, if they exist.

It has been taken for granted in the late discussion of this subject, both in railroad and commercial circles, that the ocean rates from the three cities are now practically the same, and this is the foundation for the claim that the inland rates should be the same. But are the ocean rates really the same? The statements herewith submitted do not show that they are. Misapprehension has been created by dealing with the average ocean rates for the whole year. It will be readily seen, that if the ocean rates during six months of the year were three cents lower from Baltimore or Philadelphia than from New York, and for the other six months they were three cents higher, the average for the year would show that the rates were the same. Yet as competition is carried on from day to day, and under different conditions during different seasons of the year, the rates prevailing each day, and not the average rates for the year, which may never be charged, control the business.

During the first four months of this year (see Statement H) the average ocean rates, steam and sail, were 2.74 cents higher from Baltimore than from New York. It is not probable that Baltimore, during those four months, could have secured any business at the same inland rate and adding the higher ocean rate. From May to November of this year the average ocean rates, steam and sail, were only 0.3 cents higher from Baltimore than from New York; while in 1880 they were 1.54 cents higher; and yet we do not find that the reduction in ocean rates in 1881 gave to Baltimore more than its usual proportion of the grain business, in fact its grain receipts have been considerably less.

The great fluctuations constantly taking place in the ocean rates at different seasons of the year, under the ever changing conditions of commerce, make it entirely impracticable to vary the inland rates from day to day as the ocean rates may vary. No man, be he ever so wise, can foretell what will

be the difference in the ocean rates during any particular period in the future, and the plan of equalizing the through rates, based upon the sum of ocean and inland rates, can never be successfully carried out. It is therefore fortunate that we have evidence that the ocean rates adapt themselves to the inland rates with more precision than human wisdom could devise. This is the one redeeming feature in this whole intricate problem, and which may be relied upon, in a great measure, for an equalization of the through rates through the different cities.

From this view of the case it would seem that too much stress has been laid upon the necessity of a nice adjustment of inland rates, from the operation of which it is expected that each of the railroads and each of the cities should get exactly that proportion of the competitive traffic to which it may consider itself entitled. This expectation is entertained in face of the fact that differential rates heretofore have never been observed whenever they came in conflict with the more legitimate conditions of competition; and there is not the least prospect that they ever will be maintained, nor ought they to be, if they operate unjustly toward any of the railroads or communities affected by them.

Relying, in a great measure, upon the ocean rates to adapt themselves to the inland rates, and bearing in mind that the distribution of traffic between the Trunk Lines and cities is controlled by other conditions than mere agreements as to rates, a fact that is well established by the constancy with which this traffic divides itself, regardless of transportation rates, the true plan evidently is, to agree upon a proper distribution of that traffic at its source, if possible, and then to allow it to flow to the different cities according to the natural laws of trade. The rates should be sufficiently flexible, and might be changed from time to time, so as to secure to the competing lines the agreed amount of traffic based upon the distribution of traffic as it took place under free competition. This is a much more direct and practical way of securing justice to each road, than to attempt to predetermine and enforce rates, under the impression that this could bring about a satisfactory division of traffic.

There is no danger that under this plan any one city would be discriminated against. None of the Trunk Lines are exclusively identified with any one of the cities; they are interested in the traffic of all, and they desire to serve all. The New York Central and Hudson River Railroad forms part of lines to Baltimore, Philadelphia and Boston, as well as to New York. The New York, Lake Erie and Western Railroad is interested in Boston and Philadelphia, as well as in New York; and the Pennsylvania Railroad serves the four cities. The Baltimore and Ohio Railroad, more exclusively a Baltimore railroad, is seeking for a separate entrance into New York. Forty per cent. of the East bound tonnage received at Philadelphia is carried there by the New York roads; 80 per cent. of the Boston business is carried there by the New York roads; 7 per cent. of the Baltimore business is carried there by New York roads, and 40 per cent. by the Pennsylvania Railroad. The Pennsylvania Railroad contributes 20 per cent. to the New York business.

The idea that any one of these railroads, after having made large investments to secure business to *all cities*, is working exclusively in favor of any one and against all others, is not borne out by the facts in the case. They are interested in the prosperity of all; and although each may show a natural preference to the city with which it is more closely identified, it is not in a position to discriminate unjustly against the others, except at a loss of a large amount of revenue. The controlling principle of each of the Trunk Lines is to do all the business it can secure for any city. The Pennsylvania Railroad certainly would not continue to carry freight to New York if it were an injury to Philadelphia; nor would the New York Central and Erie roads carry to Baltimore, Philadelphia and Boston if it were an injury to New York. They could easily confine their business to any one city if they desired to discriminate in its favor, by charging higher rates to the other cities; but each company carries (as common carriers should do) business wherever it is wanted, and to the full extent of its capacity; and the fact that they do this is alone sufficient evidence that they have no desire to discriminate in favor of or against any one city, but propose to allow the traffic to flow according to the laws of trade and commerce.

I regret that this report has extended to so great a length : but it will be admitted that the subject is one of the most complex and intricate nature, upon which there may justly be a great diversity of judgment according to the different stand-points from which it is viewed. It will also be admitted, that so far the problem has only been dealt with upon its surface indications, and a more exhaustive examination and analysis seemed justified by its great importance, and the great losses that are incurred by a continued failure to agree upon its final solution.

If I have been able to call attention to some of the facts which have heretofore received only partial if any consideration, and if this leads to a fuller examination and to a final settlement of this vexed question upon a permanent basis, the object of this report has been fully attained ; and in that case I need not apologize for its great length.

ALBERT FINK,
Commissioner.

POSTSCRIPT.

The question of marine insurance has not been considered above. I recently called upon Mr. Frank Firth, President of the Erie and Western Transportation Company, for information on this subject, and he has made some estimates and written a report, in which he gives the following general conclusions. I have, however, had no time to examine into the matter.

First.—The cost of marine insurance constitutes an important element in comparing the total cost of movement by ocean from different seaboard cities.

Second.—The differences in cost of ocean marine insurance by different classes of capacity, and for important periods, greatly exceed the present differentials in rail rates.

Third.—A differential rate that might overcome the increased ocean cost, due to an inferior insurance class of ocean capacity, and permit a movement of *c o r n* by a given port, might not, owing to the higher insurance cost per 100 pounds, similarly permit a movement of *w h e a t*.

OFFICE OF COMMISSIONER, NEW YORK, Dec. 1, 1881.

STATEMENT A.

Showing the Total number of Bushels of Grain (including Flour) Received at and Exported from the Four Atlantic Ports, during the Years 1878, 1879 and 1880. Compiled from Produce Exchange Reports.

	RECEIPTS.		EXPORTS.			RECEIPTS IN EXCESS OF EXPORTS.	
	Bushels.	Per cent. of Total Rec'ts.	Bushels.	Per cent. of Total Exports.	Per cent. of Rec'ts.	Bushels.	Per cent. of Rec'ts.
I.—For Year 1878.							
New York:							
Canal.....	63,905,872	23.4	.....	.....	.....	.....	.....
Rail.....	85,350,079	31.3	.....	.....	.....	.....	.....
Coast.....	3,606,219	1.3	.....	.....	.....	.....	.....
Total, New York,	152,862,170	56.0	107,819,044	56.6	70.5	45,043,126	29.5
Boston.....	27,291,781	10.0	12,941,359	6.8	47.4	14,350,422	52.6
Philadelphia.....	45,474,650	16.7	29,876,327	15.7	65.7	15,598,323	34.3
Baltimore.....	47,075,240	17.3	39,724,954	20.9	84.4	7,350,286	15.6
Total, Four Ports,	272,703,841	100.0	190,361,684	100.0	69.8	82,342,157	30.2
II.—For Year 1879.							
New York:							
Canal.....	57,044,406	18.4	.....	.....	.....	.....	.....
Rail.....	101,929,243	32.9	.....	.....	.....	.....	.....
Coast.....	4,151,241	1.3	.....	.....	.....	.....	.....
Total, New York,	163,124,890	52.6	124,350,932	54.5	76.2	38,773,958	23.8
Boston.....	32,798,829	10.6	15,774,076	6.9	48.1	17,024,753	51.9
Philadelphia.....	47,398,455	15.3	32,310,473	14.2	68.2	15,087,982	31.8
Baltimore.....	66,799,926	21.5	55,629,594	24.4	83.3	11,170,332	16.7
Total, Four Ports,	310,122,100	100.0	228,065,075	100.0	73.5	82,057,025	26.5
III.—For Year 1880.							
New York:							
Canal.....	69,440,901	21.9	.....	.....	.....	.....	.....
Rail.....	95,414,822	30.2	.....	.....	.....	.....	.....
Coast.....	4,236,820	1.4	.....	.....	.....	.....	.....
Total, New York,	169,092,543	53.5	135,204,800	56.7	80.0	33,887,743	20.0
Boston.....	36,827,476	11.7	20,449,864	8.5	55.5	16,377,612	44.5
Philadelphia.....	49,370,273	15.6	31,894,362	13.4	64.6	17,475,911	35.4
Baltimore.....	60,642,146	19.2	50,957,415	21.4	84.0	9,684,731	16.0
Total, Four Ports,	315,932,438	100.0	238,506,441	100.0	75.5	77,425,997	24.5

RECAPITULATION IN PERCENTAGES.

YEARS.	PER CENT. OF RECEIPTS.		PER CENT. OF RECEIPTS EXPORTED.				PER CENT. OF EXPORTS.		PER CENT. OF RECEIPTS IN EXCESS OF EXPORTS.			
	N. Y. & Bost. Per cent.	Phila. & Balt. Per cent.	New York Per cent.	Boston Per cent.	Phila-delphia Per cent.	Baltimore Per cent.	N. Y. & Bost. Per cent.	Phila. & Balt. Per cent.	New York Per cent.	Boston Per cent.	Phila-delphia Per cent.	Baltimore Per cent.
1878....	66.0	34.0	70.5	47.4	65.7	84.4	63.4	36.6	29.5	52.6	34.3	15.6
1879....	63.2	36.8	76.2	48.1	68.2	83.3	61.4	38.6	23.8	51.9	31.8	16.7
1880....	65.2	34.8	80.0	55.5	64.6	84.0	65.2	34.8	20.0	44.5	35.4	16.0

Statement showing Tonnage of 8th Class Freight forwarded to the four Atlantic Cities over the four Trunk Lines during the year ending December 31, 1880; also proportion of same exported on Through Bills of Lading.

OVER THE FOUR TRUNK LINES.	BOSTON.		NEW YORK.		PHILADELPHIA.		BALTIMORE.	
	Tons.	Per cent. of total Tonnage.	Tons.	Per cent. of total Tonnage.	Tons.	Per cent. of total Tonnage.	Tons.	Per cent. of total Tonnage.
Total tonnage.....	593,732	.....	2,380,782	.....	1,117,990	.....	1,332,091	.....
Shipped on Foreign B. L. .	293,713	49.5	446,279	18.7	81,588	7.3	24,776	1.9
Shipped on Domestic B. L. .	300,019	50.5	1,934,503	81.3	1,036,402	92.7	1,307,315	98.1

STATEMENT B.

Showing the relative amount of West and East Bound, and Export Tonnage (under through bills of lading), of all classes, of the Four Atlantic Cities, during the periods named below :

WEST BOUND TONNAGE

Forwarded from the Four Atlantic Cities, including a portion of New England, over the Five Trunk Lines.

PERIODS OF TIME.	Total Tons from Four Atlantic Cities.	PERCENTAGE OF EACH CITY OF TOTAL TONNAGE.				
		New York.	Boston & N. E.	Phila.	Balt.	Total.
I.—For the year of 1878.	1,274,858	58.1	16.2	15.5	10.2	100.0
II.—For the year of 1879.	1,534,923	54.2	16.3	16.1	13.4	100.0
III.—For the year of 1880.	1,871,480	54.6	16.5	16.0	12.9	100.0
IV.—For the 8 months ending Aug. 31, 1881.	1,297,563	56.3	18.9	13.6	11.2	100.0

EAST BOUND TONNAGE

Over the Four Trunk Lines, exclusive of Live Stock.

PERIODS OF TIME.	Total Tons to Four Atlantic Cities.	PERCENTAGE OF EACH CITY OF TOTAL TONNAGE.				
		New York.	Boston & N. E.	Phila.	Balt.	Total.
I.—For the year of 1878	7,318,000	42.8	22.0	17.6	17.6	100.0
II.—For the 12 months ending July 31, 1880.	8,934,000	43.2	19.5	18.4	18.9	100.0
III.—For the 12 months ending July 31, 1881.	8,973,000	44.3	23.3	16.1	16.3	100.0

EXPORT UNDER THROUGH BILLS OF LADING,

Over the Four Trunk Lines.

PERIODS OF TIME.	Total Tonnage.	PERCENTAGE OF EACH CITY OF TOTAL TONNAGE.				
		New York.	Boston	Phila.	Balt.	Total.
I.—August 1, 1879, to July 31, 1880	1,293,030	56.1	29.0	10.9	4.0	100.0
II.—August 1, 1880, to July 31, 1881	1,329,826	57.1	32.0	7.4	3.5	100.0

NOTE.—The four Trunk Lines when mentioned means the New York Central and Hudson River, the New York, Lake Erie and Western, the Pennsylvania and the Baltimore and Ohio Railroads; when the five Trunk Lines are referred to, the Grand Trunk Railway of Canada is included.

STATEMENT C.

STATEMENT SHOWING	I.—The "Receipts" of Dead Freight (in classes) and Cattle and Hogs, by the four Trunk Roads, at New York City, Boston, Philadelphia and Baltimore (Eastbound).	DURING YEAR 1880.
	II.—The "Exports" (in classes) under Through Bills of Lading, via New York City, Boston, Philadelphia and Baltimore (Eastbound).	
	III.—The "7th Class Traffic" Receipts by the four Trunk Roads, and Exports according to Produce Exchange Report (Eastbound).	
	IV.—The "Imports" destined to Trunk Line Termini and West thereof, arriving at New York, Boston, Philadelphia and Baltimore (Westbound).	

I.—RECEIPTS.

ATLANTIC CITIES.	CLASSIFICATION (IN TONS).															CATTLE.	HOGS.
	I.	II.	III.	IV.	V.	VI.	VII.	VIII.	X.	XI.	Cotton.	Tobacco.	Iron.	Special.	Total.	Tons.	Tons.
New York City.....	12,602	14,754	80,407	15,838	42,210	119,881	611,189	2,411,731	202,812	32,107	53,017	75,403	11,836	10,208	3,693,995	420,855	152,580
Boston.....	2,570	29,972	15,385	4,064	10,705	20,605	111,037	593,732	65,793	3,708	27,051	2,253	1,996	5,993	894,864	39,054	48,969
Philadelphia.....	2,801	12,358	12,279	2,741	9,003	33,766	120,169	1,117,990	87,689	6,851	13,830	3,912	9,780	2,109	1,435,278	87,788	30,315
Baltimore.....	1,108	1,077	6,391	1,215	6,385	20,123	71,923	1,332,091	20,147	12,383	8,107	6,604	4,400	820	1,492,774	34,363	33,114
Total.....	19,081	58,161	114,462	23,858	68,303	194,375	914,318	5,455,544	376,441	55,049	102,005	88,172	28,012	19,130	7,516,911	582,060	264,978
Proportion of each class.....	0.25	0.78	1.52	0.32	0.91	2.59	12.16	72.58	5.01	0.73	1.36	1.17	0.37	0.25	100.00		

II.—EXPORTS UNDER THROUGH BILLS OF LADING.

ATLANTIC CITIES.		CLASSIFICATION (IN TONS).													Total.	
		I.	II.	III.	IV.	V.	VI.	VII.	VIII.	X.	XI.	Cotton.	Tobacco.	Iron.		Special.
New York City	432	371	1,570	1,579	8,518	17,423	269,099	446,279	4,819	17,903	28,431	18,105	...	...	349	814,878
Boston	4	41	289	817	1,099	351	80,189	293,662	4,406	2,978	19,550	1,333	...	...	...	404,719
Philadelphia	41	62	580	135	401	991	51,409	81,377	402	4,211	6,857	1,656	...	...	179	148,301
Baltimore	5	0	94	19	302	313	23,350	24,825	845	431	6,124	1,311	...	...	...	57,619
Total	482	474	2,533	2,550	10,320	19,078	424,047	846,143	10,472	25,523	60,962	22,405	...	...	528	1,425,517
Proportion exported	2.53	0.82	2.21	10.69	15.11	9.82	46.38	15.51	2.78	46.36	59.76	25.41	...	...	2.76	18.97

II.—7TH CLASS—RECEIPTS BY THE FOUR TRUNK ROADS.

Exports according to Produce Exchange Report.

ATLANTIC CITIES.	RECEIPTS.		EXPORTS.	
	Tons.	Per Ct.	Tons.	Per Ct.
New York City.....	611,189	66.85	494,609	68.92
Boston.....	111,037	12.14	129,500	18.05
Philadelphia.....	120,169	13.14	59,122	8.24
Baltimore.....	71,923	7.87	34,362	4.79
Total.....	914,318	100.00	717,593	100.00

NOTE.—The receipts of Grand Trunk not being included, the Exports show more than Receipts.

IV.—IMPORTS UNDER THROUGH BILLS OF LADING.

ATLANTIC CITIES.	CLASSIFICATION (IN TONS).								Per Ct. of Total Import.	Import Per Ct. of Total West- bound Tonnage.
	I.	II.	III.	IV.	V.	Special.	California.	Total.		
New York City.....	4,185	6,289	1,243	12,087	2,703	11,833	1,134	39,474	45.38	3.87
*Boston.....	317	176	58	17,737	...	...	...	18,288	21.02	5.92
Philadelphia.....	1,118	40	53	7,965	11,786	...	...	20,962	24.10	7.00
Baltimore.....	321	34	23	1,369	6,521	...	...	8,268	9.50	3.38
Total.....	5,941	6,539	1,377	39,158	21,010	11,833	1,134	86,992	100.00	4.65
Per cent. of each class.....	6.83	7.52	1.58	45.01	24.15	13.60	1.31	100.00		

* NOTE.—The Central Vermont Import Tonnage is included in this statement.

STATEMENT D.

TOTAL RECEIPTS AND EXPORTS OF FLOUR AND GRAIN

At the five Atlantic cities, New York, Philadelphia, Baltimore, Boston and Montreal, during the years named below; also, Percentages of each City of Total Receipts.

RECEIPTS.

YEAR.	TOTAL RECEIPTS OF THE FIVE ATLANTIC CITIES.	PERCENTAGES OF EACH CITY OF TOTAL RECEIPTS.							
		NEW YORK.				Phila.	Balt.	Boston.	Montreal.
		Canal.	Rail.	Coast.	Total.				
1860.....	85,427,151	.....	.....	.....	63.5	7.3	11.2	10.4	7.6
1865.....	93,753,650	.....	.....	.....	57.5	8.6	11.4	14.3	8.2
1866.....	97,522,166	.....	.....	.....	61.2	7.7	8.6	11.6	10.9
1867.....	87,112,779	.....	.....	.....	55.3	8.8	13.1	12.5	10.3
1868.....	106,769,295	.....	.....	.....	57.9	11.7	11.6	11.0	7.8
1869.....	118,268,926	.....	.....	.....	55.0	12.3	11.7	10.0	11.0
1870.....	124,461,841	27.9	25.9	2.4	56.2	12.3	11.1	10.5	9.9
1871.....	158,805,433	33.1	21.7	1.6	56.4	12.7	11.0	9.6	10.3
1872.....	170,234,499	29.7	22.4	1.3	53.4	14.2	12.1	10.0	10.3
1873.....	174,525,321	24.5	27.5	0.8	52.8	14.3	11.2	10.3	11.4
1874.....	192,452,353	24.6	30.0	1.2	55.8	12.8	12.9	9.3	9.2
1875.....	179,875,321	21.1	30.1	1.1	52.3	15.7	12.2	10.2	9.6
1876.....	209,082,401	15.6	28.2	2.0	45.8	17.4	16.9	10.9	9.0
1877.....	205,420,366	23.5	24.8	2.0	50.3	12.5	16.9	11.3	9.0
1878.....	293,576,061	21.76	29.07	1.23	52.06	15.49	16.04	9.29	7.12
1879.....	332,485,424	17.15	30.66	1.25	49.06	14.25	20.09	9.86	6.74
1880.....	341,349,702	20.33	27.95	1.23	49.51	14.43	17.76	10.88	7.42

EXPORTS.

YEAR.	TOTAL EXPORTS OF THE FIVE ATLANTIC CITIES.	PERCENTAGES OF EACH CITY OF TOTAL EXPORTS.				
		New York.	Phila.	Balt.	Boston.	Montreal.
1873.....	87,407,846	62.10	5.50	10.35	2.45	19.60
1874.....	104,994,100	62.94	6.36	11.96	3.03	15.71
1875.....	90,313,244	56.12	9.80	12.63	4.42	17.03
1876.....	125,771,730	44.13	17.50	19.69	4.80	13.88
1877.....	124,582,116	50.10	10.82	20.74	4.79	13.55
1878.....	212,497,231	50.74	14.06	18.69	6.09	10.42
1879.....	249,942,748	49.75	12.93	22.26	6.31	8.75
1880.....	265,383,823	50.95	12.01	19.20	7.71	10.13

NOTE.—The above Statement was compiled from Annual Reports of the New York Produce Exchange, with the exception of the Percentages of New York, *via* Canal, Rail and Coast, respectively, of the Total Receipts for the years 1870 to 1875, inclusive, which were prepared from Statement on page 198, of the Railroad Gazette of April 19, 1878.

STATEMENT E.

Showing the Total Tonnage and Per Cent. of Total Tonnage from each Point of its Origin carried from the West, and Termini of the Four Trunk Roads (N. Y. Central, N. Y., L. E. and Western, Penna., Balt. and Ohio), to Points East of the Trunk Line Termini, during the Year ending December 31, 1880.

NOTE.—The Tonnage forwarded from Competing Points does not include that which passes through these Points, on through Bills of Lading.

POINTS OF ORIGIN.			POINTS OF ORIGIN.		
	Tonnage.	Per Cent.		Tonnage.	Per Cent.
—From Principal Cities of Competition, Traffic from which has been divided.			IV.—From Terminal Points of Trunk Lines.		
Chicago.....	1,512,986	14.43	Buffalo.....	1,031,792	9.83
Peoria.....	390,148	3.72	Salamanca.....	18,246	0.17
St. Louis.....	337,795	3.22	Dunkirk.....	19,348	0.19
Indianapolis.....	285,460	2.72	Erie.....	46,786	0.45
Cincinnati.....	152,756	1.46	Pittsburg.....	274,231	2.62
Louisville.....	73,468	0.70	Wheeling.....	25,700	0.25
Total.....	2,752,613	26.25	Parkersburg.....	9,270	0.08
I.—From other Principal Cities, from which Traffic should be divided.			Bellaire.....	4,757	0.05
Milwaukee.....	278,800	2.66	Total.....	1,430,130	13.64
Cleveland.....	214,620	2.04	V.—From States, exclusive of Tonnage already reported from Principal Cities and Competing Points.		
Detroit.....	140,324	1.34	Wisconsin and N. W. and W. of Mo. River.....	320,805	3.06
Toledo.....	388,778	3.71	Iowa.....	266,246	2.54
Total.....	1,022,522	9.75	Illinois.....	900,741	8.59
II.—From Minor Points of Competition, from which Traffic can also be divided.			Missouri.....	38,377	0.36
Mississippi River Points.....	326,736	3.12	Ark., Tex., La. and Ind. Ty.....	49,899	0.48
Missouri River Points.....	78,532	0.75	California.....	22,845	0.22
Bloomington.....	5,016	0.05	Michigan.....	399,113	3.80
Springfield, Illinois.....	4,500	0.04	Western Canada.....	157,649	1.50
Ca'ro.....	8,529	0.08	New York State.....	43,013	0.41
Hamilton, Ont.....	10,806	0.10	Western Pennsylvania.....	107,229	1.02
Toronto.....	16,349	0.15	Ohio.....	1,325,631	12.65
Evansville.....	61,889	0.59	Indiana.....	696,619	6.64
Fort Wayne.....	33,907	0.32	South of Ohio River.....	168,346	1.60
Lafayette.....	27,117	0.26	West Virginia.....	2,093	0.02
Terre Haute.....	32,012	0.31	Unknown.....	49,937	0.48
Vincennes.....	32,625	0.31	Total.....	4,548,543	43.37
Columbus.....	18,126	0.17	Grand Total.....	10,488,246	100.00
Columbus.....	48,496	0.46			
Dayton.....	29,798	0.28			
Sandusky.....					
Total.....	734,438	6.99			

STATEMENT showing the Percentages of Tonnage originating from the several States, classified according to their Origin in States.

ORIGIN BY STATES.		Tonnage.	Per Cent.	ORIGIN BY STATES.		Tonnage.	Per Cent.
Wisconsin.....		599,605	5.72	South of Ohio River		241,814	2.31
Iowa		502,355	4.79	Western Pennsylvania		428,246	4.08
Missouri.....		545,231	5.20	West Virginia.....		37,063	0.35
Ark., Tex., La. and Ind. Ty.....		49,899	0.48	New York State.....		1,112,399	10.60
Illinois.....		2,821,920	26.91	Western Canada		184,804	1.76
Indiana		1,169,629	11.15	California.....		22,845	0.22
Michigan.....		59,437	5.14	Unknown		49,937	0.48
Ohio.....		2,182,962	20.81	Total		10,488,246	100.00

STATEMENT F.

Showing the Distribution and Per Cent. of Total Tonnage to each Destination of Traffic originating at the Four Atlantic Cities and Eleven Interior New England Competing Points, carried to the West by the Four Trunk Roads (the N. Y. Central, N. Y., L. E. & Western, Pennsylvania & Balt. & Ohio). Also including Traffic carried by Central Vermont and Grand Trunk from Boston and New England Competing Points,

DURING THE YEAR ENDING DECEMBER 31, 1880.

NOTE.—The New England Competing Points, the Tonnage of which is embraced in this Statement, are Lowell, Nashua, Worcester, Springfield, Providence, South Framingham, Northampton, Holyoke, Westfield, Salem, and Fitchburg.

DESTINATIONS.	TONNAGE.	PER CENT.
Chicago	346,582	18.52
Peoria	11,012	0.59
St. Louis	115,776	6.18
Indianapolis	30,955	1.65
Cincinnati	118,768	6.35
Louisville	37,069	1.98
Total,	660,162	35.27
Milwaukee	45,299	2.42
Cleveland	82,288	4.40
Detroit	74,955	4.01
Toledo	30,374	1.62
Total,	232,916	12.45
Mississippi River Points	16,927	0.91
Missouri River Points	37,629	2.01
Bloomington	3,729	0.20
Springfield	8,048	0.43
Cairo	929	0.05
Evansville	9,104	0.49
Fort Wayne	8,865	0.47
Lafayette	5,730	0.31
Terre Haute	8,012	0.43
Columbus	22,707	1.21
Dayton	14,845	0.79
Sandusky	5,833	0.31
Total,	142,388	7.61
Buffalo	57,587	3.08
Pittsburg	260,722	13.93
Wheeling	22,576	1.21
Parkersburg	4,592	0.24
Total,	345,477	18.46
Wisconsin and North West	83,149	4.44
Iowa	29,045	1.55
Illinois	28,324	1.51
Missouri	4,511	0.24
Ark., Tex., La. and Ind. T'y	7,681	0.41
California	48,369	2.59
Michigan	41,552	2.22
Western Canada	25,383	1.36
New York State	8,884	0.47
Pennsylvania	31,453	1.68
Ohio	128,954	6.89
Indiana	26,006	1.39
South of Ohio River	25,979	1.39
West Virginia	1,247	0.07
Total,	490,537	26.21
Grand Total,	1,871,480	100.00

STATEMENT showing the Percentages of Tonnage Destined to the several States, classified according to their Destination in States.

DISTRIBUTION BY STATES.	TONNAGE.	PER CENT.
Wisconsin	128,448	6.86
Iowa	39,613	2.12
Missouri	164,275	8.78
Ark., Tex., La. and Ind. T'y	7,681	0.41
Illinois	398,634	21.30
Indiana	88,672	4.74
Michigan	116,507	6.22
Ohio	403,789	21.57
South of Ohio River	63,048	3.37
Pennsylvania	292,175	15.61
West Virginia	28,415	1.52
New York State	66,471	3.55
Western Canada	25,383	1.36
California	48,369	2.59
Total,	1,871,480	100.00

STATEMENT G.

STATEMENT showing Average Quotations of Ocean Rates from the Seaboard Cities named below, to LIVERPOOL, BY STEAMERS, and CORK FOR ORDERS, BY SAILING VESSELS, during the years 1877 to 1880, inclusive. Compiled from New York Produce Exchange Reports. Average Quotations reduced to Cents per 100 lbs.

FOR FIRST SIX MONTHS OF EACH YEAR.

YEAR.	To LIVERPOOL, BY STEAMERS.						To CORK, FOR ORDERS, BY SAILING VESSELS.				
	From New York.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal—direct.	From Montreal, <i>via</i> Portland.	From New York.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal.
1877.....	18.2 cts.	21.7 cts.	24.1 cts.	...	19.5 cts.	33.7 cts.	26.3 cts.	26.5 cts.	28.0 cts.	...	...
1878.....	27.3 "	29.7 "	32.0 "	25.7 cts.	28.7 "	45.7 "	29.5 "	29.1 "	29.2 "	28.1 cts.	30.5 cts.
1879.....	18.7 "	21.3 "	21.7 "	17.5 "	18.7 "	33.5 "	25.0 "	25.0 "	25.8 "	22.9 "	26.4 "
1880.....	16.4 "	20.3 "	19.0 "	16.6 "	21.2 "	35.9 "	22.9 "	22.2 "	23.8 "	21.8 "	28.3 "

FOR LAST SIX MONTHS OF EACH YEAR.

YEAR.	To LIVERPOOL, BY STEAMERS.						To CORK, FOR ORDERS, BY SAILING VESSELS.				
	From New York.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal—direct.	From Montreal, <i>via</i> Portland.	From New York.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal.
1877.....	27.6 cts.	32.0 cts.	30.9 cts.	...	31.2 cts.	...	31.9 cts.	31.4 cts.	30.9 cts.	...	...
1878.....	23.0 "	26.7 "	25.7 "	22.0 cts.	25.0 "	...	29.2 "	28.7 "	29.7 "	27.5 cts.	31.8 cts.
1879.....	22.4 "	27.2 "	24.3 "	22.4 "	28.3 "	38.7 cts.	29.2 "	27.7 "	28.5 "	24.8 "	31.7 "
1880.....	23.0 "	22.5 "	25.7 "	21.4 "	22.9 "	36.3 "	27.7 "	27.0 "	27.8 "	26.4 "	29.2 "

FOR ENTIRE YEAR.

YEAR.	To LIVERPOOL, BY STEAMERS.						To CORK, FOR ORDERS, BY SAILING VESSELS.				
	From New York.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal—direct.	From Montreal, <i>via</i> Portland.	From New York.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal.
1877.....	22.9 cts.	26.9 cts.	27.5 cts.	...	28.2 cts.	33.7 cts.	29.1 cts.	28.9 cts.	29.4 cts.	...	...
1878.....	25.1 "	28.2 "	28.8 "	23.8 cts.	26.0 "	45.7 "	29.4 "	28.9 "	29.5 "	27.8 cts.	31.5 cts.
1879.....	20.6 "	24.2 "	23.0 "	20.0 "	24.9 "	35.0 "	27.1 "	26.3 "	27.1 "	23.0 "	29.8 "
1880.....	19.7 "	21.4 "	22.3 "	19.0 "	22.0 "	36.1 "	25.8 "	24.6 "	25.8 "	24.1 "	28.2 "

STATEMENT showing Differences in Cents, per 100 lbs., in the Average Quotations of Ocean Rates at PHILADELPHIA, BALTIMORE, BOSTON and MONTREAL, as compared with NEW YORK. The Differences above New York Rates are marked +, and those below New York Rates are marked —.

FOR FIRST SIX MONTHS OF EACH YEAR.

YEAR.	To LIVERPOOL, BY STEAMERS.					To CORK, FOR ORDERS, BY SAILING VESSELS.			
	From Philadelphia.	From Baltimore.	From Boston.	From Montreal—direct.	From Montreal, <i>via</i> Portland.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal.
1877.....	+ 3.5 cts.	+ 5.9 cts.	...	1.3 cts.	+ 15.5 cts.	+ 0.2 cts.	+ 1.7 cts.	...	...
1878.....	+ 2.4 "	+ 4.7 "	— 1.6 cts.	1.4 "	18.4 "	— 0.4 "	— 0.3 "	— 1.4 cts.	1.0 cts.
1879.....	+ 2.6 "	+ 3.0 "	— 1.2 "	0.0 "	14.8 "	0.0 "	— 0.8 "	— 2.1 "	1.4 "
1880.....	+ 3.9 "	+ 2.6 "	+ 0.2 "	4.8 "	19.5 "	— 0.7 "	— 0.9 "	— 1.1 "	5.4 "

FOR LAST SIX MONTHS OF EACH YEAR.

YEAR.	To LIVERPOOL, BY STEAMERS.					To CORK, FOR ORDERS, BY SAILING VESSELS.			
	From Philadelphia.	From Baltimore.	From Boston.	From Montreal—direct.	From Montreal, <i>via</i> Portland.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal.
1877.....	+ 4.4 cts.	+ 3.3 cts.	...	3.6 cts.	...	— 0.5 cts.	— 1.0 cts.	...	...
1878.....	+ 3.7 "	+ 2.7 "	— 1.0 cts.	2.0 "	...	— 0.5 "	0.5 "	— 1.7 cts.	2.6 cts.
1879.....	+ 4.8 "	+ 1.9 "	— 0.0 "	5.9 "	+ 16.3 cts.	— 1.5 "	— 0.7 "	— 4.4 "	2.5 "
1880.....	— 0.5 "	+ 2.7 "	— 1.6 "	— 0.1 "	+ 13.3 "	— 0.7 "	+ 0.1 "	— 1.3 "	1.5 "

FOR ENTIRE YEAR.

YEAR.	To LIVERPOOL, BY STEAMERS.					To CORK, FOR ORDERS, BY SAILING VESSELS.			
	From Philadelphia.	From Baltimore.	From Boston.	From Montreal—direct.	From Montreal, <i>via</i> Portland.	From Philadelphia.	From Baltimore.	From Boston.	From Montreal.
1877.....	+ 4.0 cts.	+ 4.6 cts.	...	5.3 cts.	10.8 cts.	— 0.2 cts.	0.3 cts.	...	...
1878.....	+ 3.1 "	+ 3.7 "	— 1.3 cts.	0.9 "	20.6 "	— 0.5 "	0.1 "	— 1.6 cts.	+ 2.1 cts.
1879.....	+ 2.6 "	+ 2.4 "	— 0.6 "	+ 4.3 "	14.4 "	— 0.8 "	0.0 "	— 4.1 "	— 2.7 "
1880.....	+ 1.7 "	+ 2.6 "	— 0.7 "	+ 2.3 "	16.4 "	— 0.7 "	+ 0.5 "	— 1.2 "	— 3.5 "

STATEMENT H.

I.—*Quotations of Rates on Grain via Lake and Canal and Lake and Rail, from Chicago to New York, during the year 1880, as per report of Board of Trade of Chicago.*

II.—*Average Ocean Rates at New York and Baltimore, for each of the 11 months ending November 30, 1881.*

III.—*Estimate of Average Ocean Rates on Grain exported by Steam and Sail, from New York and Baltimore, from January 1 to November 30, 1881.*

RATES ON GRAIN VIA LAKE AND CANAL AND
LAKE AND RAIL.

NOTE.—*The estimate for insurance—0.6 cents per 100 lbs.—is based upon the charges of 1881 applied to the value of grain transported during 1880.*

DATE.	LAKE AND CANAL RATES.			
	Lake (Sail), to Buffalo.	Canal, Buffalo to N. Y. (including tolls.)	Chicago to N. Y. (including Buffalo charges and tolls.)	LAKE (STEAM) AND RAIL RATES.
	Cents per 100 lbs.	Cents per 100 lbs.	Cents per 100 lbs.	Cents per 100 lbs.
April 10	9.9	12.5	23.7	....
17	8.2	12.5	22.0	28.6
24	6.3	11.6	19.3	28.6
May 1	5.2	9.8	16.3	28.2
8	6.8	9.6	17.5	27.5
15	7.7	10.2	19.2	26.7
22	9.0	10.1	20.5	25.1
29	10.2	9.9	21.4	27.3
June 5	10.8	10.5	22.6	27.3
12	13.2	11.2	25.7	27.5
19	12.3	11.7	25.4	26.7
26	11.5	11.9	24.7	27.2
July 3	10.0	11.5	22.8	26.7
10	9.5	10.8	21.5	26.7
17	7.6	9.5	18.4	24.8
24	7.2	9.1	17.6	24.8
31	8.0	9.7	18.9	23.9
August 7	9.8	9.2	20.3	25.0
14	10.1	9.4	20.8	26.3
21	9.1	9.8	20.2	25.0
28	8.7	10.5	20.5	23.0
September 4	7.8	9.7	18.5	25.5
11	7.1	9.6	18.4	22.5
18	6.9	9.6	18.2	22.7
25	6.8	9.7	18.2	22.5
October 2	7.5	10.1	19.3	22.0
9	9.9	10.4	22.0	23.0
16	11.9	10.1	23.8	25.4
23	12.5	11.1	25.4	26.7
30	12.2	13.1	27.1	26.7
November 6	12.8	14.3	28.8	26.7
13	12.1	13.9	27.7	26.5
20	10.9	13.0	25.8	28.0
27	11.2	....	....	29.5
Av'ge rate..	9.4	10.8	21.6	25.9
Lake Ins. . .	0.6	....	0.6	0.6
Av'ge + Ins	10.0	10.8	22.2	26.5

AVERAGE OCEAN RATES AT NEW YORK
AND BALTIMORE,

For each of the 11 months ending November 30, 1881.

1881.	STEAM, To Liverpool.		SAIL, To Cork for orders.	
	New York.	Balti- more.	New York.	Balti- more.
	Per Bushel.	Per Bushel.	Per Quarter.	Per Quarter.
	d.	d.	s. d.	s. d.
January . .	7 +	7½ +	4 5½ +	5 6 +
February . .	5½ —	6¼ —	4 11 +	4 11 +
March	5 —	6¼ —	4 6 +	4 8 —
April	4½	5½	4 6½	4 8½
May	2½	2¾ +	4 4¾	3 9 +
June	3½ —	3½ —	4 4¾	3 9 +
July	4¾ —	4 +	4 7½	4 3 +
August	5 +	5½ —	5 1 +	4 8 +
September . .	3½ +	4 —	4 8 —	4 3
October	3 —	3½	4 5	4 0½
November . .	4½	5½	4 6½	4 9 +
Average for 11 months ending Nov. 30, '81, in s. and d.	4½	4½	4 7½	4 5½ +
In cents per 100 lbs.	14.4	15.4	23.0	22.3

STATEMENT H—Continued.

AVERAGE OCEAN RATES ON EXPORT GRAIN, FROM JANUARY 1 TO NOVEMBER 30, 1881.

	JANUARY 1 TO APRIL 30.				MAY 1 TO NOVEMBER 30.				JANUARY 1 TO NOVEMBER 30.			
	NEW YORK.		BALTIMORE.		NEW YORK.		BALTIMORE.		NEW YORK.		BALTIMORE.	
	Per Cent. of Exports.	Average Ocean Rate in Cents per 100 lbs.	Per Cent. of Exports.	Average Ocean Rate in Cents per 100 lbs.	Per Cent. of Exports.	Average Ocean Rate in Cents per 100 lbs.	Per Cent. of Exports.	Average Ocean Rate in Cents per 100 lbs.	Per Cent. of Exports.	Average Ocean Rate in Cents per 100 lbs.	Per Cent. of Exports.	Average Ocean Rate in Cents per 100 lbs.
Steamers.....	44.4	18.2	31.1	21.2	44.4	12.5	31.1	13.4	44.4	14.4	31.1	15.4
Sailing Vessels.....	55.6	23.0	68.9	24.7	55.6	23.0	68.9	21.0	55.6	23.0	68.9	22.3
Total.....	100.0	....	100.0	....	100.0	....	100.0	....	100.0	....	100.0	....
Average rate.....	....	20.87	....	23.61	....	18.34	....	18.64	....	19.18	....	20.15
Average rate higher than New York.....	....	....	....	2.74	....	....	....	0.30	....	....	....	0.97

NOTE 1.—The above rates are on the basis of Steam to Liverpool, and Sail to Cork, for orders.

NOTE 2.—The amounts estimated as exported by Steam and Sail during each period, were assumed to be in the same proportion as those shown by Statement K.

STATEMENT J.

Destination of Export Corn and Wheat from New York and Baltimore during Crop Year ending August 31, 1880, and from Philadelphia during Calendar Year ending December 31, 1880.

DESTINATIONS.	NEW YORK.	Per cent. of Total from New York.	Per cent. of Total from the Three Cities to each Destination.	PHILA-DELPHIA.	Per cent. of Total from Philadelphia.	Per cent. of Total from the Three Cities to each Destination.	BALTIMORE.	Per cent. of Total from Baltimore.	Per cent. of Total from the Three Cities to each Destination.
	BUSHELS.			BUSHELS.			BUSHELS.		
GREAT BRITAIN :									
London.....	9,234,783	8.1					806,394	1.5	
Liverpool.....	11,278,805	9.9					3,456,210	6.5	
Glasgow.....	4,485,581	3.9					95,915	0.1	
Hull.....	4,255,559	3.8					619,582	1.1	
Bristol.....	3,091,014	2.7					513,323	1.0	
Dublin.....	389,982	0.3					1,586,576	3.0	
Belfast.....	448,931	0.4					1,344,029	2.5	
Gloucester.....	242,740	0.2					405,285	0.8	
Cork and Queenstown.....	19,727,255	17.4					9,299,455	17.4	
New Castle.....	799,238	0.7					701,140	1.3	
Cardiff.....	374,193	0.3					208,678	0.4	
Other British ports.....	10,175,351	9.0					7,695,917	14.4	
Total British ports..	64,503,462	56.7	60.8	14,783,911	48.7	14.0	26,732,504	50.1	25.2
GER., DUTCH and BELGIAN PORTS :									
Antwerp.....	7,756,377	6.9					2,668,449	5.0	
Hamburg.....	4,723,139	4.2					541,532	1.0	
Bremen.....	1,611,484	1.4					646,716	1.2	
Rotterdam.....	2,861,890	2.5					984,826	1.9	
Amsterdam.....	164,340	0.2							
Other German ports.....	925,902	0.8					45,295	0.1	
Total Ger., Dutch and Belg. pts..	18,043,132	16.0	65.0	4,812,248	15.8	17.4	4,886,818	9.2	17.6
DENMARK.....	2,830,798	2.5	80.3	467,216	1.5	13.3	227,822	0.4	6.4
SWEDEN AND NORWAY.....	731,528	0.6	87.2	107,449	0.4	12.8			
FRANCE :									
Havre.....	4,241,523	3.7					1,716,647	3.2	
Marseilles.....	1,577,841	1.4					24,200	0.1	
Bayonne.....	64,202	0.1					625,910	1.2	
Dunkirk.....	1,273,631	1.2					1,734,738	3.2	
Rouen.....	1,332,509	1.2					3,318,614	6.2	
Calais.....	1,030,791	0.8					1,039,191	1.9	
St. Nazaire.....	680,181	0.6					2,653,916	5.0	
Bordeaux.....	596,475	0.5					4,517,723	8.5	
Other French ports.....	1,494,714	1.3					3,854,706	7.2	
Total French ports..	12,291,867	10.8	32.1	6,484,104	21.4	16.9	19,489,645	36.5	51.0
PORTUGAL :									
Lisbon.....	960,811	0.8					24,585	0.1	
Oporto.....	198,457	0.2					128,619	0.2	
Other Portuguese ports.....	100,838	0.1							
Total Portuguese ports..	1,259,606	1.1	36.6	2,026,939	6.7	58.9	153,204	0.3	4.5
SPAIN :									
Vigo.....	10,056	0.0							
Barcelona.....	290,945	0.2							
Gibraltar.....	366,325	0.3							
Cadiz.....	30,262	0.1							
Other Spanish ports.....	1,475,540	1.3							
Total Spanish ports..	2,173,128	1.9	53.0	1,072,486	3.5	26.2	851,565	1.6	20.8
ITALY :									
Genoa.....	28,208	0.0							
Naples.....	1,108,524	1.0					793,936	1.4	
Other Italian ports.....	1,721,787	1.5					91,545	0.1	
Total Italian ports..	2,858,519	2.5	68.7	478,383	1.6	11.5	825,481	1.5	19.8
ALL OTHER PORTS :									
Geneva.....	83,660	0.1							
Other Continental ports.....	7,574,351	6.7		49,698	0.2		10,000	0.0	
Brazil.....	700	0.0							
Argentine Republic.....	62,746	0.1					22,183	0.0	
Other South American Ports.....	252,560	0.2		71	0.0		24,321	0.1	
West Indies.....	622,609	0.5		64,769	0.2				
Central America.....	3,639	0.0					7,735	0.0	
British North American Colonies.....	18,197	0.0					142,141	0.3	
Other Countries.....	377,200	0.3							
Total other ports..	8,995,662	7.9	96.6	114,538	0.4	1.2	206,380	0.4	2.2
Total export, corn and wheat..	113,687,702	100.0	57.6	30,347,274	100.0	15.4	53,373,359	100.0	27.0

NOTE.—The New York statement was compiled from New York Produce Exchange Report for 1880, pages 352 and 353 ; the Philadelphia statement from the Forty-eighth Annual Report of the Philadelphia Board of Trade, pages 75 to 95 inclusive ; and the Baltimore statement from the Report of the Baltimore Corn and Flour Exchange for 1880, pages 93 and 94, and 111 to 113 inclusive.

STATEMENT K.

Estimate of Average Ocean Rates on Grain Exported by Steam and Sail from New York, Philadelphia and Baltimore, during the year, and during the periods of Open and Closed Navigation of the Year 1880.

DURING THE YEAR.

	NEW YORK.			PHILADELPHIA.			BALTIMORE.		
	Bushels.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.	Bushels.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.	Bushels.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.
Steamers	48,893,852	44.4	19.7	7,390,000	25.1	21.4	12,804,529	31.1	22.3
Sailing Vessels	61,266,969	55.6	25.3	22,067,000	74.9	24.6	28,383,410	68.9	25.8
Total,	110,160,821	100.0		29,457,000	100.0		41,187,939	100.0	
Average Rate.....			22.81			23.79			24.71
Ave. Rate higher than from N. Y..						0.98			1.90

DURING OPEN NAVIGATION.

	NEW YORK.			PHILADELPHIA.			BALTIMORE.		
	Tons.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.	Tons.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.	Tons.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.
Steamers	1,302,369	44.4	23.0	143,857	25.1	22.5	265,595	31.1	25.7
Sailing Vessels	1,630,895	55.6	27.7	429,279	74.9	27.0	588,407	68.9	27.8
Total,	2,933,264	100.0		573,136	100.0		854,002	100.0	
Average Rate.....			25.61			25.87			27.15
Ave. Rate higher than from N. Y..						0.26			1.54

DURING CLOSED NAVIGATION.

	NEW YORK.			PHILADELPHIA.			BALTIMORE.		
	Tons.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.	Tons.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.	Tons.	Per Cent.	Average Ocean Rate in Cents per 100 lbs.
Steamers	245,000	44.4	16.4	37,421	25.1	20.3	82,401	31.1	19.0
Sailing Vessels	306,802	55.6	22.9	111,665	74.9	22.2	182,553	68.9	23.8
Total,	551,802	100.0		149,086	100.0		264,954	100.0	
Average Rate.....			20.01			21.72			22.31
Ave. Rate higher than from N. Y..						1.71			2.30

NOTE 1.—The rates during the year are on the basis of Steam to Liverpool, and Sail to Cork for orders, for entire year of 1880; the rates during open navigation are taken from the last six months of 1880, and the rates during closed navigation for first six months of 1880. See Statement "G."

NOTE 2.—The Statement for the year shows the quantities of Corn and Wheat exported by Steam and Sail from New York, as per N. Y. Produce Exchange Annual Report for 1880, page 351; from Philadelphia for the year ending December 31, 1880, as furnished by Messrs. Peter Wright & Sons; and from Baltimore for the Crop year ending August 31, 1881, compiled from the Baltimore Journal of Commerce of September 3, 1881.

NOTE 3.—Estimate of Exports of Grain during seasons of Open and Closed Navigation, are based upon the receipts of grain at New York, Philadelphia and Baltimore during the respective periods, assuming that the percentages of receipts exported during each period were the same as for the entire year, viz.: New York, 80 per cent., Philadelphia, 61.6 per cent., Baltimore, 81 per cent. The amounts estimated as exported by steam and by sail during each period, were assumed to be in the same proportion as the exports during the whole year.

STATEMENT L.

Estimate of Average Rate per 100 lbs. for Transporting Grain to and through New York, Philadelphia and Baltimore, by all Routes, during the year 1880. Also, during Open Navigation of same year.

	DURING THE YEAR 1880.			DURING OPEN NAVIGATION, 1880.		
	Weight in Tons.	Average quoted Rates in cents per 100 lbs.	Estimated Revenue.	Weight in Tons.	Average quoted Rates in cents per 100 lbs.	Estimated Revenue.
NEW YORK :						
Lake and Canal.....	1,975,552	22.2	\$8,771,450	1,975,552	22.2	\$8,771,450
Lake and Rail.....	712,257	25.25	3,596,898	712,257	25.25	3,596,898
Rail—Through.....	1,668,525	30.0	10,011,150	978,772	27.5	5,383,246
Totals—Tonnage and Estimated Revenue.....	4,356,334		\$22,379,498	3,666,581		\$17,751,594
Average Inland Rate.....		25.69			24.21	
Average Ocean Rate.....		22.81			25.61	
Average Through Rate.....		48.50			49.82	
PHILADELPHIA :						
Lake and Rail.....	171,377	23.25	\$796,903	171,377	23.25	\$796,903
Rail—Through.....	946,613	28.0	5,301,032	715,830	25.5	3,650,733
Totals—Tonnage and Estimated Revenue.....	1,117,990		\$6,097,935	887,207		\$4,447,636
Average Inland Rate.....		27.27			25.07	
Average Ocean Rate.....		23.79			25.87	
Average Through Rate.....		51.06			50.94	
BALTIMORE :						
Lake and Rail.....	160,429	22.25	\$713,909	160,429	22.25	\$713,909
Rail—Through.....	1,171,662	27.0	6,326,974	856,240	24.5	4,195,576
Totals—Tonnage and Estimated Revenue.....	1,332,091		\$7,040,883	1,016,669		\$4,909,485
Average Inland Rate.....		26.43			24.14	
Average Ocean Rate.....		24.71			27.15	
Average Through Rate.....		51.14			51.29	

RECAPITULATION.

	DURING THE YEAR 1880.			DURING OPEN NAVIGATION, 1880.		
	N. Y.	Phila.	Balt.	N. Y.	Phila.	Balt.
Average Inland Rate.....	25.69 cts.	27.27 cts.	26.43 cts.	24.21 cts.	25.07 cts.	24.14 cts.
Less or more to New York, allowing Differentials.....		-1.58 "	-0.74 "		-0.86 "	-0.07 "
Less to New York, without Differentials.....		3.58 "	3.74 "		2.86 "	2.93 "
Average Ocean Rate.....	22.81 cts.	23.79 "	24.71 "	25.61 cts.	25.87 "	27.15 "
Less from New York.....		0.98 "	1.90 "		0.26 "	1.54 "
Average Through (Inland and Ocean) Rate.....	48.50 cts.	51.06 "	51.14 "	49.82 cts.	50.94 "	51.29 "
Less <i>via</i> New York, allowing Differentials.....		2.56 "	2.64 "		1.12 "	1.47 "
Less <i>via</i> New York, without Differentials.....		4.56 "	5.64 "		3.12 "	4.47 "

NOTE I.—The average Rail rate during the year 1880, according to tariff, was 32.5 cents per 100 lbs., Chicago to New York, but as this rate was not always fully maintained, 30 cents has been estimated as the average rate during the whole year. During open navigation the tariff rate was 30 cents, but for same reasons has been estimated at 27.5 cents.

NOTE II.—The average Lake and Rail rate, as reported by the Chicago Board of Trade, was 25.9 cents; on account of probable reductions in rail proportion, it has been assumed 1.25 cents less, making it 24.65 cents + 0.6 cents insurance, = 25.25 cents. The rates on grain from Buffalo were probably less, on account of reduced rail rates, but have been estimated the same as lake (steam) and rail. The grain shipments originating at Buffalo, were 479,505 tons to New York, and 18,646 tons to Philadelphia.

NOTE III.—No estimate has been made of the average rate to Boston, as the reports of rail receipts at Boston do not include the receipts *via* the Grand Trunk Railway, and are therefore incomplete.

NOTE IV.—The estimate of average rates is based upon grain carried to seaboard by the Trunk Lines from their Western termini and beyond.

In the Produce Exchange reports of total receipts at seaboard cities, there is included grain from points East of Western termini of the Trunk Lines, as well as grain from other transportation routes.

A comparison of Trunk Line and Produce Exchange Statements will show that New York received from these sources 299,450 tons, or about 10,000,000 bushels; Philadelphia, 217,350 tons, or about 7,000,000 bushels; Baltimore, 388,921 tons, or about 12,000,000 bushels.

Expressed in percentages of the whole receipts, this grain, for the transportation of which the Trunk Lines do not compete, amounts at New York to 6.4 per cent.; at Philadelphia to 16.3 per cent.; and at Baltimore to 22.6 per cent. of the whole receipts.

